

Decision No. 65501

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,
practices, rates and charges of
Jay Griffith.

Case No. 7509

Jay Griffith, in propria persona.

Timothy E. Treacy, for the Commission
staff.

O P I N I O N

On December 18, 1962, the Commission instituted an investigation into the operations, rates and practices of Jay Griffith, who operates from Alturas, California, under Radial Highway Common Carrier Permit No. 25-221.

A public hearing was held on March 20, 1963, at Alturas, before Examiner Rowe.

Respondent presently has two units of equipment and employs one part-time driver, doing most of the work himself, including the rating of shipments. During 1961, his gross revenue amounted to \$103,720 and his net earnings including his own salary were \$8,369.03. As he has no bookkeeper he has not yet completed his income tax return for 1962, but he stated that he is now convinced that this year will reveal a substantial net loss as he has been compelled to sell two of his units to meet current expenses.

It was stipulated that during and prior to the period studied, November 1961 through June 1962, respondent was in possession of all appropriate minimum rate tariffs and distance tables. The Commission's Transportation Representative selected 23 freight movements as demonstrating violations. Most of these

indicate undercharges by respondent in the aggregate amount of \$706.86, as follows:

| <u>Freight Bill No.</u> | <u>Date</u> | <u>Undercharge</u> |
|-----------------------------|-------------|--------------------|
| 210 | 11-11-61 | \$ 15.66 |
| 114 | 11-30-61 | 48.38 |
| 115 | 12-2-61 | 17.08 |
| 276 | 12-15-61 | 3.63 |
| 221 | 12-23-61 | |
| 427 | 1-19-62 | 62.90 |
| 441 | 2-21-62 | 106.75 |
| 445 | 3-11-62 | 75.00 |
| 68 | 6-11-62 | 13.22 |
| 228 | 6-16-62 | 15.20 |
| 229 | 6-16-62 | 15.20 |
| 1054 | 7-22-62 | 26.88 |
| 1055 | 7-29-62 | 19.08 |
| 32 | 8-11-62 | 8.52 |
| no number | 10-21-62 | 74.42 |
| no number | 12-17-61 | 47.10 |
| no number | 12-30-61 | 56.05 |
| no number | 1-11-62 | 55.50 |
| no number | 1-15-62 | 15.00 |
| no number | 1-31-62 | 17.49 |
| no number | 2-4-62 | 4.48 |
| no number | 4-20-62 | - |
| no number | 6-8-62 | 8.32 |
| Total Undercharges | | \$706.86 |

In analyzing the shipment represented by freight bill numbered 221, the staff treated the movement as involving two truck movements of 51,450 pounds, 44,250 pounds of which should have been charged at the rate of 48 cents per 100 pounds and 7,200 pounds charged at the rate of 108 cents per 100 pounds. The staff witness testified that this was done because the freight bill showed nothing under the headings "Driver", "Vehicle Number" and "Description of Commodity" but merely contained the statement, "56 head (Griffith), 8 head (Bud)".

Under the headings "Weight", "Rate" and "Charges" appeared the figures:

| <u>Weight</u> | <u>Rate</u> | <u>Charges</u> |
|---------------|-------------|----------------|
| 44,250 | | |
| 7,200 | | |
| 51,450 | 48 | \$246.86 |

Mr. Griffith testified that there were 56 head in the shipment which included the 8 head shown as weighing 7,200 pounds. He stated that he could not explain the notations on the freight bill. The weight certificate of this shipment corroborates this testimony. The Commission finds that only one movement and only one truck and trailer were involved. ✓
✓
✓

Another undercharge noted by the staff involved a split delivery movement made for Mobil Oil Company located in Oakland, California. However, respondent testified that pursuant to this shipper's policy of always paying at least the minimum rate for truck transportation the Mobil Company had voluntarily called this undercharge to his attention and sent its check for the undercharge. The other undercharges resulted from either incomplete documentation or inaccurate computation of charges.

Upon consideration of the evidence the Commission finds that:

1. Minimum Rate Tariffs No. 2 and No. 3-A and Distance Table No. 4 were served upon respondent Jay Griffith prior to the undercharges alleged herein.

2. Respondent has violated Sections 3664, 3667 and 3737 of the Public Utilities Code by charging, demanding, collecting and receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariffs No. 2 and No. 3-A and supplements thereto, with respect to 22 parts of Exhibit No. 3.

3. With respect to the transaction shown in Parts 1 through 23 of Exhibit 3, except as to Part 5, the respondent has violated Section 3664 of the Public Utilities Code by assessing and collecting charges less than the applicable minimum charges prescribed in Minimum Rate Tariffs No. 2 and No. 3-A which resulted in undercharges in the total amount of \$706.86.

4. In the performance of various transportation services hereinabove set forth and more particularly appearing in Exhibits Nos. 1 and 3, respondent has violated or failed to comply with the documentation provisions of Minimum Rate Tariffs No. 2 and No. 3-A.

Having found facts as hereinabove set forth, the Commission concludes that respondent, Jay Griffith, has violated Sections 3664, 3667 and 3737 of the Public Utilities Code and the provisions and requirements of Minimum Rate Tariffs No. 2 and No. 3-A by charging and collecting a lesser compensation for the transportation of property as a permit carrier than the minimum charges prescribed in the Commission's Minimum Rate Tariffs No. 2 and No. 3-A and respondent should be required to pay a fine of \$1,500. ✓

O R D E R

IT IS ORDERED that:

1. On or before one hundred and twenty days after the effective date of this order, respondent shall pay a fine to the Commission in the sum of \$1,500. ✓

2. Respondent shall examine his records for the period from November 1, 1961, to the present time for the purpose of ascertaining all undercharges that have occurred.

3. Within ninety days after the effective date of this order, respondent shall complete the examination of his records required by paragraph 2 of this order and shall file with the Commission a report setting forth all undercharges found pursuant to that examination.

4. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, together with those found after the examination required by paragraph 2 of this order, and shall notify the Commission in writing upon the consummation of such collections.

5. In the event undercharges ordered to be collected by paragraph 4 of this order, or any part of such undercharges, remain uncollected one hundred twenty days after the effective date of this order, respondent shall institute legal proceedings to effect collection and shall file with the Commission, on the first Monday of each month thereafter, a report of the undercharges remaining to be collected and specifying the action taken to collect such undercharges, and the result of such action, until such undercharges have been collected in full or until further order of the Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 27th day of MAY, 1963.

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

[Signature] President
Acting President

Frederick B. Hallock

William K. Burnett

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.