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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)	
own motion into the operations,)	Case No. 7576
rates, charges, and practices of)	
WALTER L. TAYLOR, an individual.)	

Mervyn C. Hoover, for respondent.
Robert C. Marks, for the Commission staff.

O P I N I O N

By its order issued March 19, 1963, the Commission instituted an investigation into the operations, rates, charges and practices of Walter L. Taylor, an individual, having a usual place of business in Loomis, California and operating as a radial highway common carrier as defined in Section 3516 of the Public Utilities Code.

A public hearing was held before Examiner Daly on June 25, 1963, at Sacramento and the matter was submitted.

It was stipulated that respondent was served with Minimum Rate Tariff No. 2 and Distance Table No. 4.

The record indicates that respondent operates and maintains a terminal near his home in Loomis, California. He owns and operates two tractors and two sets of double trailers. He employs one driver and for the last three quarters of 1962 and the first quarter of 1963 realized a gross operating revenue in the amount of \$32,118. Respondent had previously been warned of alleged rate violations by an undercharge letter mailed to him by this Commission on September 6, 1961.

According to the testimony of a Commission field representative, respondent's place of business had been visited on October 25 and 30, 1962, and again on November 11, 1962. Respondent's records

were checked for the period April 1, 1962 to and including June 30, 1962. During said period respondent issued 100 freight bills. The underlying documents affecting 19 shipments were submitted to the License and Compliance Branch of the Commission for the purpose of preparing Exhibit 3. Exhibit 3 is a statement of the minimum rates applicable to said shipments. Said Exhibit 3 was received pursuant to a stipulation that its contents were true and correct.

Each of the 19 shipments involved the transportation of lumber and in each instance respondent applied a rate less than the minimum rate applicable thereto. The total undercharges amount to \$753.38.

In mitigation respondent testified that the rates charged were suggested by the Siller Lumber Sales, a lumber broker and respondent's biggest account, and that respondent assertedly relied upon the representations of his customer that said suggested rates were lawful. At the present time, respondent testified he has engaged a traffic consultant for the purpose of rating his shipments.

After consideration the Commission hereby finds that respondent charged less than the lawfully prescribed minimum rates in the instances as set out in Exhibit 3 in this proceeding. Based upon the foregoing findings of fact the Commission concludes that respondent violated Sections 3664, 3667 and 3737 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. If, on or before the twentieth day after the effective date of this order, respondent has not paid the fine referred to in paragraph 7 of this order, then Radial Highway Common Carrier Permit No. 31-603 issued to Walter L. Taylor shall be suspended for five

days, starting at 12:01 a.m., on the second Monday following the twentieth day after said effective date. Respondent shall not, by leasing the equipment or other facilities used in operations under these permits for the period of suspension, or by any other device, directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. In the event the suspension as provided in paragraph 1 hereof becomes effective, respondent shall post at his terminal and station facilities used for receiving property from the public for transportation, not less than five days prior to the beginning of the suspension period, a notice to the public stating that his radial highway common carrier permit has been suspended by the Commission for a period of five days. Within five days after such posting respondent shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. Respondent shall examine his records for the period from January 1, 1962 to the present time, for the purpose of ascertaining all undercharges that have occurred.

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

5. 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 3 of this order, and shall notify the Commission in writing upon the consummation of such collections.

6. In the event undercharges ordered to be collected by paragraph 5 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.

7. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$1,500 to this Commission on or before the twentieth day after the effective date of this order.

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 30th day of JULY, 1963.

William W. Brandt
 President

John E. ...

George F. ...

Fredrick B. Hallock
 Commissioners