

ORIGINALDecision No. 56020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CHARLES SILL CO., INC., of Bakersfield)
 for a permit to operate as a Radial)
 Highway Common Carrier Permit, (Appli-) Application No. 44783
 cation No. 15-6697-R), for the trans-) (Filed August 20, 1962)
 portation of potatoes, onions, apricots,)
 etc., from field to shed, Central)
 California Area, (File No. T 73,791).)

Charles L. Hay, for applicant.
Elinore Charles, for the Commission staff.

OPINION AND ORDER

A public hearing was held in the above-entitled matter at Bakersfield on November 15 and 16, 1962 before Examiner Power on a consolidated record with Case No. 7432.

The Commission staff presented evidence, especially documentary evidence, that Sill, since filing the application, had been operating as if it had had a permit and had employed subhaulers¹ to transport its own property. This is a device for securing transportation at less than the applicable minimum rates.

It appears that Sill proposes to operate primarily for the transportation of its own property. It will, however, need the requested permit because property will occasionally be transported which belongs to others.

The present situation can be corrected and the minimum rates protected by issuing a permit containing a restriction of the type set forth herein and by requiring applicant to repay to the purported subhaulers all amounts deducted from payments to them in the past.

¹ The documentary evidence concerned the four named in the findings and order following.

The Commission finds that:

1. It has heretofore not issued any operating authority permitting Charles Sill Co., Inc., to transport property for compensation over any public highway in this State.

2. Charles Sill Co., Inc., presently possesses no operating authority from this Commission authorizing operations as a for-hire carrier of property.

3. Charles Sill Co., Inc., has been employing highway permit carriers, including Billy Gladden, Will McCaslin, Norman D. Etchison and Albert L. Neeley, to transport property belonging to itself.

4. Charles Sill Co., Inc., has made deductions from the payments for such transportation due carriers, such deductions being of the type usually made by overlying carriers from sums due subhaulers.

5. These carriers are not subhaulers but primary carriers.

6. Such deductions have had the effect of enabling Charles Sill Co., Inc., to obtain transportation of its own property at less than the minimum rates prescribed by the Commission.

7. If Charles Sill Co., Inc., is granted an unrestricted permit, it will be enabled, in the future, to obtain transportation of its own property at less than the Commission's prescribed minimum rates.

8. Some of said deductions may have included amounts due for transportation excise taxes payable to the State Board of Equalization and Transportation Rate Fund fees payable to this Commission.

The order which follows will provide that applicant shall pay the sums withheld as set forth in the above findings.

IT IS ORDERED that:

1. Charles Sill Co., Inc., shall review its records from July 1, 1962 to the date of this order to determine the amounts deducted from sums due to subhaulers, including but not limited to

Billy Gladden, Bill McCaslin, Norman D. Etchison, and Albert L. Neeley, and shall report the amounts of such deductions to the Commission in writing, separately showing the amounts actually paid in taxes and Transportation Rate Fund fees and amounts deducted as overlying carrier's fees.

2. Charles Sill Co., Inc., shall pay to said subhaulers all amounts deducted from amounts due subhaulers save and except for any amounts actually paid to the state as taxes or Transportation Rate Fund fees.

3. When Charles Sill Co., Inc., shall have furnished to the Commission satisfactory evidence of its compliance with ordering paragraphs 1 and 2 of this order, the Secretary of the Commission is directed to cause Radial Highway Common Carrier Permit No. 15-6697 to be issued to Charles Sill Co., Inc., a corporation, inserting therein a condition and restriction providing that, whenever a subhauler or subhaulers are employed to transport property of Charles Sill Co., Inc., a corporation, or of its customers and suppliers, applicant shall pay to such subhauler or subhaulers the full Commission minimum rate applicable to such transportation.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of SEPTEMBER, 1963.

Adelmar L. Burnett
President

George L. Cover

Frederick B. Holbrook
Commissioners