

ORIGINALDecision No. 66029

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates and practices of DENIO BROS.) Case No. 7608
 TRUCKING CO., a Nevada corporation.)

Mervyn Hoover, for respondent.
Elinore Charles and A. J. Lyon, for
 the Commission staff.

O P I N I O N

On May 1, 1963, the Commission instituted its investigation into the operations, rates, charges and practices of Denio Bros. Trucking Co.

Public hearing was held before Examiner Porter on July 11, 1963, at Truckee, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent, in violation of Sections 3664 and 3667 of the Public Utilities Code has charged, demanded or received a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2, and supplements thereto.

The staff selected a review period of July 1, 1962 to September 30, 1962. During this period the carrier had 377 rateable shipments. All were examined. Eighteen were selected as representative and forwarded to the Rate Analysis Unit of the Commission and undercharges were found in each instance. The undercharges resulted in general from (1) a failure to assess off rail charges when applicable, (2) assessing a rail rate but not observing applicable minimum weights, and (3) assessing a rate based on a judgment figure in

an effort to satisfy the consignee who was in the construction business and wanted lumber delivered to particular job sites, with the locations of which the respondent's drivers were not familiar. Respondent left his truck at the construction yard and the consignee employed a driver to deliver the lumber to the ultimate destination.

It was stipulated that Radial Highway Common Carrier Permit No. 59-672 was issued to respondent and that it had been served with Minimum Rate Tariff No. 2, Distance Table No. 4 and applicable supplements thereto.

Based upon the evidence we find that:

1. Respondent is engaged in the transportation of property over the public highways for compensation as a radial highway common carrier.

2. Respondent assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 2, which resulted in undercharges as follows:

<u>Freight Bill No.</u>	<u>Date (1962)</u>	<u>Charge Assessed or Collected by Respondent</u>	<u>Correct Charge</u>	<u>Undercharge</u>
4279	7/6	\$127.63	\$136.75	\$ 9.12
4255	7/11	138.22	162.90	24.68
4256	7/12	211.10	224.75	13.65
4265	7/17	238.64	291.31	51.88
4273	7/20	131.19	162.80	31.61
4290	7/20	306.42	334.58	28.16
4336	8/1	18.84	44.20	25.36
4359	8/2	139.39	189.20	49.81
4414	8/23	306.04	353.53	47.49
4484	9/5	210.00	215.00	5.00
4494	9/5	36.30	57.80	21.50
4487	9/6	130.96	144.05	13.09
4500	9/7	131.62	154.00	22.38
4584	9/10	89.39	96.90	7.51
4524	9/14	37.59	58.09	20.50
4539	9/19	130.88	141.50	10.82
4587	9/25	130.79	136.00	5.21
4543	9/30	185.26	201.47	<u>16.21</u>

Undercharges for these shipments amounted to: \$403.98

Based on the foregoing findings, we conclude that respondent violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a compensation less than the minimum established by this Commission in Minimum Rate Tariff No. 2.

O R D E R

IT IS ORDERED that:

1. Respondent shall pay a fine of \$2,500 to this Commission on or before the twentieth day after the effective date of this order.
2. Respondent shall examine its records for the period from July 1, 1962 to the present time, for the purpose of ascertaining all undercharges that have occurred.
3. 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.
4. Within ninety days after the effective date of this order, respondent shall complete the examination of its 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.
5. In the event undercharges ordered to be collected by paragraph 3 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 17th day of September, 1963.

William B. Bennett
President

Robert E. Bickel

Robert A. Keane

George L. Grover

Fredrick B. Hallock
Commissioners