

ORIGINAL

Decision No. 66220

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, and practices of STEVE PAPIN
and WILLIAM PAPIN, a copartnership,
doing business as PAPIN'S TRUCK
SERVICE.

Case No. 7675

Mervyn Hoover, for respondents.

B. A. Peeters, for the Commission
Staff.

O P I N I O N

By its order dated July 23, 1963, the Commission instituted an investigation into the operations, rates and practices of Steve Papin and William Papin, doing business as Papin's Truck Service.

A public hearing was held before Examiner Daly on September 11, 1963, at Vacaville.

Respondents presently conduct operations pursuant to a radial highway common carrier permit. Respondents have a terminal in Vacaville, California. They own and operate four tractors and 12 trailers. Their total gross revenue for the year 1962 was \$42,938.

On February 26, 1963, a representative of the Commission's Field Section visited respondents' place of business and checked their records for the period from October 1962 through January 1963, inclusive. During said period respondents transported 149 shipments.

The underlying documents relating to 17 shipments were taken from respondents' files and submitted to the License and Compliance Branch of the Commission's Transportation Division. Based upon the data taken from said shipping documents, a rate study was prepared and introduced in evidence as Exhibit 2.

Exhibit 2 indicates that said 17 shipments resulted in undercharges in the amount of \$1,137.09. On three shipments respondents failed to comply with the provisions relating to multiple lot shipments in that they failed to have a master bill of lading. As a result, the component parts of each shipment should have been rated separately. Two shipments involved technical mistakes in rating. The balance of the shipments involved the misapplication of rail rates in that the point of origin was off rail and no off-rail charges were assessed. In one instance both the point of origin and the point of destination were off rail.

According to the Commission records respondents were sent undercharge letters on October 29, 1959, and April 13, 1962.

After consideration the Commission finds that:

1. Respondents operate pursuant to a radial highway common carrier permit.
2. Respondents were served with appropriate tariffs and distance tables.
3. Respondents charged less than the lawfully prescribed minimum rate in the instances as set forth in Exhibit 2.

Based upon the foregoing findings of fact, the Commission concludes that respondents violated Sections 3664 and 3667 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Respondents shall on or before the twentieth day after the effective date of this order pay a fine of \$2,000 to this Commission.

2. Respondents shall examine their records for the period from July 1, 1962, 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, respondents shall complete the examination of their 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. Respondents 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, respondents 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 respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 19th day of OCTOBER, 1963.

William L. Brundts
President

Cecil W. Page

George L. Grover

Frederick B. Holloff
Commissioners

Commissioner Peter E. Mitchell
present but not voting.