

ORIGINALDecision No. 66263

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of EARL K.
GRIFFITH, doing business as
SEQUOIA TRUCKING.

Case No. 7643
(Filed June 4, 1963)

Earl K. Griffith, in propria persona.

William C. Bricca and R. D. Lowe, for the Commission
staff.

O P I N I O N

The Commission instituted an investigation into the operations, rates and practices of Earl K. Griffith, doing business as Sequoia Trucking, who operates under Radial Highway Common Carrier Permit No. 7-2169, Contract Carrier Permit No. 7-2116 and City Carrier Permit No. 7-3250, all acquired by him on September 22, 1960.

A public hearing was held on August 26, 1963, in San Francisco, before Examiner Rowe.

Respondent operates five tractors, six trucks and seven semi and 11 full trailers. During the last two quarters of 1962 and the first two quarters of 1963 his gross revenue was \$283,135. It was shown that respondent was in possession of all appropriate minimum rate tariffs and distance tables. It was also shown that respondent and his wife are sole stockholders of, and he is the president of, Containers Carrier, Inc., a corporation which holds City Carrier Permit No. 1-9652 and Radial Highway Common Carrier Permit No. 1-9651, both issued January 23, 1962. According to the testimony of respondent, this corporation is now inactive.

The Commission's transportation representative made a study of respondent's records for the months of July, August and September 1962. He submitted the freight bills covering 11 movements of lumber, one of which was issued October 17, 1962, and one November 30, 1962, to the Rating Section for analysis. A Commission rate expert testified that these records revealed undercharges aggregating \$259.39, as follows:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Amount of Undercharge</u>
7985	7/ 5/62	\$ 40.95
7999	7/ 9/62	41.61
8052	7/13/62	54.28
8076	7/25/62	13.84
8083	7/27/62	9.29
8134	8/ 9/62	14.65
8200	8/27/62	22.05
8273	9/12/62	22.00
8379	9/26/62	22.00
8478	10/17/62	4.40
8673	11/30/62	<u>14.32</u>
	Total	\$259.39

These undercharges resulted from one or more of the following reasons: Respondent misapplied, failed to conform with, or disregarded Item No. 690, First Revised Page 51-CC of MRT No. 2 or Item No. 505, Eighteenth Revised Page 42 of MRT No. 2, Class B as provided in Item 580 of P.S.F.B., Ex. 1-S. In a number of instances an improper rail rate was used and off-rail charges were not assessed as required by Item 210 of Minimum Rate Tariff No. 2.

Respondent testified that he had billed and collected all of the above undercharges. He also indicated that from his review of his records no subsequent undercharges have occurred. He testified that because of financial and other difficulties he would prefer that his rights be revoked rather than that a fine be imposed.

The Commission finds that the staff's determination that various shipping points were not on rail, as indicated in Exhibit 3, is correct. Also, the staff's determination of all undercharges is supported by the evidence and by the implied admission of respondent in billing and collecting all undercharges indicated.

Based upon the above findings, the Commission concludes that a fine of \$750 should be imposed upon the respondent.

O R D E R

IT IS ORDERED that:

1. Respondent shall pay a fine of \$750 to this Commission on or before the twentieth day after the effective date of this order.
2. Respondent shall examine his records for the period commencing December 1, 1962, to the date of this decision for the purpose of ascertaining if any additional undercharges have occurred other than those enumerated in the foregoing opinion.
3. Within ninety days after the effective date of this order respondent shall complete the examination of his records as hereinabove required by paragraph 2 and file with the Commission a report setting forth all undercharges found pursuant to said examination.
4. Respondent is hereby directed to take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, which remain uncollected, together with any additional undercharges found after the examination required by paragraph 2 of this order, and to

notify the Commission in writing upon the consummation of such collections.

5. In the event the 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 5th day of November, 1963.

William B. Bennett
President

John Mitchell

Wentworth Page

George L. Grover

Fredrick P. Holoboff
Commissioners