

Decision No. 66264**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, charges, and practices of
NOAH MORRIS, an individual.

Case No. 7672

Mervyn D. Hoover, for respondent.Robert C. Marks, for the Commission staff.O P I N I O N

On July 23, 1963, the Commission instituted its investigation into the operations, rates, charges and practices of Noah Morris.

Public hearing was held before Examiner Porter on August 27, 1963, at Stockton, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent, in violation of Sections 3664, 3667 and 3737 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 January 1, 1962 through August 1962. One hundred freight bills were examined and 23 were selected as representative of the carrier's operations or practices and forwarded to the Rate Analysis Unit of the Commission and undercharges were found in each instance.

It was stipulated that Radial Highway Common Carrier Permit No. 34-2732 was issued to respondent and that he had been served with

Minimum Rate Tariffs Nos. 2 and 8, Distance Tables Nos. 3 and 4 and applicable supplements thereto.

It was further stipulated that Exhibit No. 4, the rate statement prepared by the staff, was correct and disclosed undercharges in the amount of \$459.39.

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 set forth in Exhibit No. 4.

Based on the foregoing findings we conclude that respondent violated Sections 3664, 3667 and 3737 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. On or before the twentieth day after the effective date of this order, respondent shall pay to this Commission a fine of \$1,000.

2. 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.

3. Within ninety days after the effective date of this order, respondent shall complete the examination of his 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. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in Exhibit No. 4, 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, 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.

Halburn C. Burnett
President

W. W. Page

George G. Trover

Frederic B. Hallock
Commissioners