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Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
 rates, charges, and practices of)
 LLOYD A. CANNON, doing business as)
 LLOYD CANNON TRUCKING.)

Case No. 7673

Lloyd Cannon and Richard A. Bennett, for respondent.
Lawrence Q. Garcia, for 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 Lloyd A. Cannon, doing business as Lloyd Cannon Trucking.

Public hearing was held before Examiner Porter on August 29, 1963 at Fresno, 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; and whether respondent has violated Section 3575 of the Public Utilities Code in that he employed subhauliers without first having filed a bond as required by said section.

The staff selected a review period of the months of October, November and December of 1962. Thirty-two shipments representative of other shipments were selected and forwarded to the Rate Analysis Unit of the Commission and undercharges were found in each instance. The undercharges resulted in general from (1) failure to assess off-rail charges when applicable, and (2) failure to observe

provisions of the tariff before applying multiple lot or split delivery rates.

The staff also presented evidence of other shipments which were not rateable because there were no weights of shipments shown.

Evidence was also presented that respondent had employed subhaulers during a period when he did not have a bond on file with the Commission.

The respondent did not challenge the staff's evidence but testified his errors were the result of incompetent dispatchers who performed the rating of the shipments.

Exhibit No. 2, the rate statement, shows undercharges totaling \$2,574.99 for the 32 shipments.

It was stipulated that Radial Highway Common Carrier Permit No. 10-7473 was issued to respondent and that he 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, as shown by Exhibit No. 2, totaling \$2,574.99.
3. Respondent employed subhaulers without first having the required bond on file with this Commission.

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; also that respondent violated Section 3575 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. On or before the twentieth day after the effective date of this order, respondent Lloyd A. Cannon shall pay to this Commission a fine of \$5,000.

2. Respondent shall examine his records for the period from October 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. 2, 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 19th day of NOVEMBER, 1963.

William L. Bennett
President
John E. Mitchell
Wendell W. Page
George A. Trover
Frederick B. Hbluff
Commissioners