

Decision No. 66780**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
 own motion into the operations, )  
 rates and practices of GRANT F. )  
 WHITFORD. )

Case No. 7623

Grant F. Whitford, in propria persona.

Hugh N. Orr and Charles P. Barrett, for  
 the Commission staff.

O P I N I O N

The Commission, on May 14, 1963, instituted this investigation into the operations, rates and practices of respondent. Respondent is a livestock carrier with headquarters near Buellton, Santa Barbara County. He holds Radial Highway Common Carrier Permit No. 42-1113 issued in 1945. He grossed \$110,872 for four quarters ended March 31, 1963, on California intrastate revenue. He has seven livestock trucks and seven trailers, three of these double units are, however, stationed at Fallon, Nevada. He employs six drivers and a bookkeeper.

A public hearing was held before Examiner Power at Santa Barbara on July 16, 1963, and the matter was submitted. A representative of the License and Compliance Branch of the Commission's Transportation Division testified. He outlined his investigation of respondent and authenticated basic documents. A Commission rate expert presented a rate statement in 18 parts based on the first witness' report and documents. Respondent testified in his own behalf.

The charge here is violation of Sections 3664 and 3667 of the Public Utilities Code through violation of Minimum Rate

Tariff No. 3-A, Items Nos. 60, 130, 140, 150, 170, 180, 250 and 251.

The specifications in the order instituting this investigation are:

1. Failure to observe minimum weight requirements.
2. Unauthorized consolidation of shipments.
3. Failure to conform to requirements of split delivery shipments.
4. Failure to obtain public weighmaster's certificates or use provided weights.
5. Failure to show precise points of delivery.
6. Failure to properly issue shipping documents.

The staff was able to substantiate all of the specific types of violation outlined above. Seventeen of the movements included in the staff's rate statement (Exhibit No. 4) involved undercharges. These totalled \$742.46.

The staff evidence provides a number of instances wherein Whitford made use of a rate without billing for the full minimum weight applicable to the rate used.

Item No. 60 of Minimum Rate Tariff No. 3-A provides that shipments shall not be consolidated or combined by a carrier. Whitford frequently did this, loading cattle belonging to two, three or even four owners and billing as if the Santa Ynez Valley Sales Yard were the shipper. In fact, the yard was not the shipper and the consignees were billed and paid for their respective shares.

Items Nos. 11(t) and 180 define and control split delivery shipments. One of the requirements is that the consignor shall pay the freight charges. Whitford violated this requirement on a number of occasions. Another requirement is that the shipment must be routed to the most distant point via the other point or points. In at least one case Whitford failed to follow this routing and thus his mileage is less than it should be.

Item No. 140 of Minimum Rate Tariff No. 3-A provides that, if a public weighmaster's certificate is obtained, the weight shown

therein shall be used in determining the charge to be assessed. If no such certificate is secured, certain arbitrarily established weights called "provided weights" must be employed. In several cases documented in the evidence, Whitford used neither. He accepted instead the sale weights used at the sales yard.

The staff's last two charges can conveniently be considered together. If the 18 movements dealt with in the staff evidence are typical, Whitford paid very little attention to the requirements of the tariff rules relating to freight bills. These are set forth in Items 250 and following of Minimum Rate Tariff No. 3-A. Most of them are indicated on respondent's own freight bill form.

According to Commission records respondent was sent an undercharge letter on August 15, 1960, and on January 3, 1962, respondent was admonished for violation of Items Nos. 130, 250 and 251 of Minimum Rate Tariff No. 3-A.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 42-1113.
2. Respondent was served with appropriate tariffs and distance tables.
3. Respondent charged less than the lawfully prescribed minimum rate in the instances as set forth in Exhibit No. 4 except that Freight Bill No. 11155 assessed a charge greater than the established minimum charge. The seventeen undercharges totalled \$742.46. ✓

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3664 and 3667 of the Public Utilities Code. The order which follows will direct respondent to review his records to ascertain all undercharges that have occurred since January 6, 1962, in addition to those set forth herein. The Commission expects that when undercharges have been

ascertained, respondent will proceed promptly, diligently and in good faith to pursue all reasonable measures to collect them. The staff of the Commission will make a subsequent field investigation into the measures taken by respondent and the results thereof. If there is reason to believe that the respondent, or his attorney, has not been diligent, or has not taken all reasonable measures to collect all undercharges, or has not acted in good faith, the Commission will reopen this proceeding for the purpose of formally inquiring into the circumstances, and for the purpose of determining whether further sanctions should be imposed on respondent.

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 \$2,000.
2. Respondent shall examine his records for the period from January 6, 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 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, 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 11<sup>th</sup> day of February, 1964.

Carell [Signature] President  
George L. Hoover  
Fredrick B. Holbrook

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.