

ORIGINAL

Decision No. 66959

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)	
own motion into the operations,)	
rates and practices of S. C.)	Case No. 7699
CROPPER TRUCKING, INC.)	

S. C. Cropper and Kenneth Mason, for respondent.
B. A. Peeters, for the Commission staff.

O P I N I O N

By its order dated September 3, 1963, the Commission issued its order instituting an investigation into the operations, rates and practices of S. C. Cropper Trucking, Inc.

A public hearing was held before Examiner Power on December 4, 1963, at Paso Robles.

Respondent presently conducts operations pursuant to a radial highway common carrier permit. Respondent has a terminal in Paso Robles, California. It owns and operates 24 units of equipment. Its total gross revenue for the year October 1, 1962 to September 30, 1963 was \$154,184. Copies of appropriate tariff and distance tables were served upon respondent.

In December 1962 and in March 1963 a representative of the Commission's Field Section visited respondent's place of business and checked its records for the period from September 1 through October 31, 1962, inclusive. During said period respondent transported 400 shipments. The underlying documents relating to 22 of these shipments were taken from respondent's 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 4. Said exhibit reflects undercharges in the amount of \$607.13.

The staff charges violation of Sections 3664, 3667 and 3737 of the Public Utilities Code through violation of Minimum Rate Tariff No. 2. The specifications are:

1. Failure to collect the full charges prescribed by Item 654½ of said tariff (10 parts of staff Exhibits 2 and 4).
2. Failure to show points of origin and destination correctly (Item 255 - 19 parts).
3. Failure to include off-rail factors (Item 210 - 10 parts).
4. Failure to assess accessorial charges (Item 240 - 2 parts).
5. Consolidation of shipments by a carrier (Item 60 - 2 parts).

There were 22 parts, in all, of Exhibits 2 and 4.

All the alleged violations except one have been sustained by the evidence. It appears that S. C. Cropper told a staff witness that two shipments of roofing had been hand unloaded. The staff witnesses took that to mean hand unloaded by the carrier. In fact the hand unloading was done by employees of the consignee and no accessorial charges were required. This reduces the staff undercharges by twice \$13.50 or \$27. It does not entirely eliminate either undercharge on the roofing shipments.

The staff License and Compliance Branch witness testified that he had observed 18 similar violations which were not included in the evidence. These were estimated by him to total \$450.

On January 1, 1963 respondent's principal stockholders, Mr. S. C. Cropper, his wife, and five of their children, transferred their stock to a son-in-law and daughter, Kenneth Mason and Wanda Lee Mason. Kenneth Mason took over as president and Wanda Lee Mason continued as secretary.

Mr. Mason testified that he had computed distances on the basis of actual mileage. This was his response to the fact that many of the violations shown were due in whole or in part to misapplications of Distance Table No. 4 involving constructive mileage.

According to the Commission records respondent's predecessor, S. C. Cropper as an individual, was sent an undercharge letter on April 17, 1959. An admonishment conference was held with Mr. Cropper on February 16, 1960.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 40-557.
2. Respondent was served with the appropriate tariffs and distance table.
3. Respondent charged less than the lawfully prescribed minimum rate in the 22 instances set forth in Exhibit 4; said undercharges totaled \$580.13.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3664, 3667 and 3737 of the Public Utilities Code.

The order which follows will direct respondent to review its records to ascertain all undercharges that have occurred since September 1, 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 respondent or its attorney has not been diligent, 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.

O R D E R

IT IS ORDERED that:

1. Respondent shall examine its records for the period from September 1, 1962 to the present time, for the purpose of ascertaining all undercharges that have occurred.

2. Within ninety days after the effective date of this order, respondent shall complete the examination of its records required by paragraph 1 of this order and shall file with the Commission a report setting forth all undercharges found pursuant to that examination.

3. 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 1 of this order, and shall notify the Commission in writing upon the consummation of such collections.

4. In the event undercharges ordered to be collected by paragraph 3 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.

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

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 17th day of MARCH, 1964.

William C. Bennett
President
John E. ...
George L. Trover
Frederic B. Hallock

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.