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ORIGINAL

Decision No. 67972

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of TED PETERS
TRUCKING CO., INC., a corporation.

Case No. 7903

Willard S. Johnson, for respondent.
Matthew Clarke, for The Borden Company,
interested party.
Elmer Sjostrom and Frank O'Leary, for the
Commission staff.

O P I N I O N

By its order dated May 19, 1964, the Commission instituted an investigation into the operations, rates, and practices of Ted Peters Trucking Co., Inc.

A public hearing was held before Examiner Porter on July 2, 1964, at San Francisco.

Respondent presently conducts operations pursuant to a highway common carrier certificate and radial highway common carrier, highway contract carrier and city carrier permits. Respondent has a terminal in Gustine, California. It operates forty power vehicles, fifty-two trailers, fifteen dollies and four automobiles. It employs thirty-two drivers and three office personnel at Gustine and five drivers and yard personnel at Los Angeles. The carrier's gross revenue for the four quarters ending March 1964, amounted to \$820,340.

A representative of the Commission's field division visited respondent's place of business and checked its records for the period from January through June, 1963. Underlying

documents relating to 22 shipments which were representative of approximately 100 similar shipments were 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 2. Said exhibit reflects undercharges in the amount of \$1,551.69 and an overcharge in the amount of \$11.26.

Evidence was presented that respondent failed to observe the provisions of its Local Freight Tariff No. 1, as follows: (1) by transporting mixed shipments of cheese and canned goods at rates named in Items Nos. 228, 236, and 253 without assessing transportation charges on weights of at least 30,000 pounds as required by those items; (2) by rerating components of split delivery shipments as separate shipments without having received instructions from the shipper as required by Rule No. 190; and (3) by rating components of split delivery shipments to destinations such as Visalia and Monterey from points not included in the published split delivery routes.

Respondent presented evidence that the mistakes in rating were inadvertent and it was always the intent of the shipper and the carrier to comply with the provisions of respondent's tariff and Commission regulation. Respondent has taken steps to improve its rating procedure in an effort to prevent future errors.

After consideration, the Commission finds that:

1. Respondent operates pursuant to a highway common carrier certificate and radial highway common carrier, highway contract and city carrier permits.
2. Respondent has on file with the Commission an appropriate tariff.

3. Respondent charged less than the prescribed rates established by its tariff in the instances set forth in Exhibit 2, resulting in undercharges in the amount of \$1,551.69 and an overcharge in the amount of \$11.26.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Section 494 of the Public Utilities Code.

The order which follows will direct respondent to review its records to ascertain all undercharges and overcharges that have occurred since January 1, 1963 in addition to those set forth herein. The Commission expects that when undercharges and overcharges have been ascertained, respondent will proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharges and refund the overcharges. 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, or has not taken all reasonable measures to collect all undercharges and refund all overcharges 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 pay a fine of \$3,000 to this Commission on or before the twentieth day after the effective date of this order.

2. Respondent shall examine its records for the period from January 1, 1963 to the present time, for the purpose of ascertaining all undercharges and overcharges that have occurred.

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

6. Respondent shall cease and desist from charging and receiving a different compensation for transportation services rendered than the rates and charges applicable thereto as specified in his schedules on file.

7. Respondent shall refund promptly any and all overcharges found after the examination required by paragraph 3 of this order, and shall notify the Commission, in writing, upon the consummation of such refunds.

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 6th day of October, 1964.

Frederick B. Holsapple
President

George L. Trover

William L. Bennett

Commissioners

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