

ORIGINAL

Decision No. 68204

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of ALL
COUNTIES EXPRESS, INC., a corpora-
tion.

Case No. 7924

E. J. Medeiros, for respondent.
Elmer J. Sjostrom and George Kataoka,
for the Commission staff.

O P I N I O N

By its order dated June 16, 1964, the Commission instituted an investigation into the operations, rates and practices of All Counties Express, Inc.

A public hearing was held before Examiner Porter on August 18, 1964, at San Francisco.

Respondent presently conducts operations pursuant to radial highway common carrier and city carrier permits. Respondent has terminals in San Leandro and Paramount. It operates 3 tractors and 12 trailers. It employs 3 drivers and 3 office personnel. Its gross revenue for the four quarters ending June 30, 1964 was \$288,329. Copies of appropriate tariff and distance tables were served upon respondent.

A representative of the Commission's Field Section visited respondent's place of business and checked its records for the period of July 1962 through September 1963.

Underlying documents relating to 23 shipments which were representative of approximately 60 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 and supplementary information supplied by the representative of the Field Section a rate study was prepared and introduced in evidence as Exhibit 3. Said exhibit reflects undercharges in the amount of \$1,266.93.

Evidence was presented that the respondent failed to pick up component parts of multiple lot shipments within the time limit provided in Minimum Rate Tariff No. 2; failed to assess off-rail charges and transported returning empty containers without charge.

After consideration the Commission finds:

1. Respondent operates pursuant to Radial highway common carrier and city carrier permits.
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 3, resulting in undercharges in the amount of \$1,266.93.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Section 3667 of the Public Utilities Code and should pay a fine in the amount of \$2,500.

The order which follows will direct respondent to review its records to ascertain all undercharges that have occurred since July 1, 1962 in addition to those set forth in Exhibit 3. 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 the undercharges. 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, 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 \$2,500 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 July 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 its 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 3, 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 10th day of November, 1964.

Fredrick B. Holdcroft
President
Robert W. [unclear]
George L. Grover
William L. Bennett
Commissioners