

ORIGINAL

Decision No. 68431

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates and practices of John Geijsbeek and Lester J. Geijsbeek, copartners, dba GELJSBEEK TRUCKERS.

Case No. 7895

Kellogg & George, by Marquam C. George,
for respondents.

Bernard A. Peeters and Frank J. O'Leary,
for the Commission staff.

O P I N I O N

By its order dated May 12, 1964, the Commission instituted an investigation into the operations, rates and practices of John Geijsbeek and Lester J. Geijsbeek, doing business as Geijsbeek Truckers.

Public hearings were held before Examiner Gravelle in San Francisco on August 5, 1964 and Examiner Porter in Fresno on October 20, 1964.

Respondents presently conduct operations pursuant to radial highway common carrier and highway contract carrier permits. They have a terminal in Corning, California; own and operate 8 power and 15 trailer units; and had total gross revenue for the last three quarters of 1963 and the first quarter of 1964 in the amount of \$257,172.

A representative of the Commission's Field Section visited respondents' place of business and checked their records for the period January 1963 through August 1963.

The staff representative testified that John Geijsbeek informed him that they had been served with Minimum Rate Tariff No. 2 and Distance Table No. 4. He further testified that respondents did have a subhaul bond on file until December 1961. At that time the bond was canceled and there has not been one in effect since. The representative testified that he examined 476 shipments for the period January through June 1963; 357 of these were for Marquart-Wolfe Lumber Co. Data regarding 56 shipments was copied by the representative and together with supplemental information as to rail facilities, points of origin and destination, and mileage calculations were forwarded 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 No. 1. Said exhibit reflects undercharges in the amount of \$5,016.42.

The staff also produced truckers who testified that they performed subhauling for respondents after December 1, 1961.

The staff introduced the quarterly reports of truckers who in the appropriate place listed the amount of subhauling they had done and for whom. The respondents were so listed. The respondents failed to show this subhauling in the appropriate place on their quarterly reports.

Additional witnesses produced by the staff testified that respondents had transported bricks at a flat rate charge. The respondents refused to allow the Field Representative to inspect any documents involving this transportation, contending it was proprietary hauling.

The Field Representative testified that lumber shipment charges were computed on board feet measure rather than on cents per 100 pounds as required by the tariff. Weights of shipments were not shown on freight bills nor were the precise points of origin and destination, as required by the tariff. Respondents permitted the debtor, Marquart-Wolfe Lumber Co., to make changes in the rates and charges and accepted payments of lesser amounts than billed.

At the Fresno hearing, neither respondents nor their attorney appeared.

After consideration the Commission finds that:

1. Respondents operate pursuant to radial highway common carrier and highway contract carrier permits.
2. Respondents were served with the appropriate tariff and distance table.
3. Respondents charged less than the lawfully prescribed minimum rates in the instances as set forth in Exhibit No. 1, resulting in undercharges in the amount of \$5,016.42.
4. Respondents employed subhaulers without having a subhaul bond on file with the Commission as required by General Order No. 102-A.
5. Respondents permitted a shipper to obtain transportation at rates and charges less than the minimum rates and charges by means of alterations of charges on shipping documents.
6. Respondents assessed rates on the basis of board foot measure, rather than on cents per 100 pounds, as required by Item No. 257 of Minimum Rate Tariff No. 2.
7. Respondents failed to supply on their quarterly reports information required by the Commission by authority of Section 3701 of the Public Utilities Code.

8. Respondents refused to allow inspection by the Commission's representative of the books, documents and papers kept or required to be kept by highway permit carriers.

Based upon the foregoing findings of fact the Commission concludes that respondents violated Sections 3575, 3664, 3667, 3737, 3668, 3701 and 3705 of the Public Utilities Code and should pay a fine in the amount of \$5,000.

The order which follows will direct respondents to review their records to ascertain all undercharges that have occurred since January 1, 1963 in addition to those set forth herein. The Commission expects that when undercharges have been ascertained, respondents 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 respondents and the results thereof. If there is reason to believe that respondents or their 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.

ORDER

IT IS ORDERED that:

1. Respondents shall pay a fine of \$5,000 to this Commission on or before the twentieth day after the effective date of this order.
2. Respondents shall examine their records for the period from January 1, 1963 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, respondents shall complete the examination of their 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. Respondents 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, respondents 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. Respondents shall cease and desist from employing subhaulers until appropriate bond has been filed with this Commission.

7. Respondents shall cease and desist from denying the Commission, or its authorized employees, representatives or inspectors access to all accounts, records, and memoranda, including all documents, books, papers and correspondence kept or required to be kept by highway permit carriers.

8. Respondents shall cease and desist from assessing rates based upon a unit of measurement different from that in which the minimum rates and charges in Minimum Rate Tariff No. 2 are stated.

9. Respondents shall complete all reports in the manner and form required by this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 5th day of January, 1965.

Frederick B. Holdhoff
President

John E. Fitzhugh

George L. Trover

William W. Stennis

Commissioners