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Decision No. 69086

**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 RUELLE, INC.,  
a corporation.

Case No. 7995  
(Filed September 1, 1964)

Avaline M. Bannister and C. V. Ruelle, Sr.,  
for respondent.  
Elmer Sjostrom and Frank O'Leary, for the  
Commission staff.

O P I N I O N

By its order dated September 1, 1964, the Commission instituted an investigation into the operations, rates and practices of Ruelle, Inc., a corporation, hereinafter referred to as respondent, for the purpose of determining whether respondent in the operation of its transportation business violated Section 3667 of the Public Utilities Code by charging and collecting sums less than the applicable charges prescribed in Minimum Rate Tariff No. 2 and supplements thereto.

A public hearing was held before Examiner Mooney at Eureka on November 6, 1964, on which date the matter was submitted.

It was stipulated that respondent was issued Radial Highway Common Carrier Permit No. 23-1407, Highway Contract Carrier Permit No. 23-1033 and City Carrier Permit No. 23-1408, and that respondent was served with Minimum Rate Tariff No. 2 and Distance Table No. 4, with all supplements and additions thereto.

A Commission representative testified that he visited respondent's office and terminal, which are located in Willits, on May 4, 5, 6, and 7, 1964, and that he reviewed all of respondent's transportation records for the period November, 1963

through March, 1964. The witness stated that respondent transported approximately 411 shipments during the period covered by his review; that he made true and correct photostatic copies of 23 freight bills and supporting documents covering shipments of lumber and plywood; and that the photostatic copies are all included in Exhibit 1. The representative stated that at the time of his investigation respondent operated seven trucks and trailers and had 17 employees and that respondent's gross revenue for the fiscal year ending June 30, 1964 was \$259,866.

Testimony regarding mileages and rail facilities in connection with certain of the shipments in Exhibit 1 was presented by the representative, a rate expert from the Commission staff and an additional staff witness.

The rate expert also testified that he had taken the set of documents in Exhibit 1 and formulated Exhibit 2, which shows the charge computed by the respondent, the minimum charge computed by the staff and the resulting undercharge for the transportation covered by each freight bill in Exhibit 1. The undercharges resulted from assessing incorrect off-rail charges and failure to assess off-rail charges (Parts 1 through 19 and 22) and from failure to comply with the documentation and other requirements for split pick up (Parts 20 and 21), multiple lot (Part 22) and split delivery (Part 23) shipments.

The secretary-treasurer of respondent testified that respondent is in business to make money and never purposely assesses a rate below the minimum level. She stated that she did not concur with the staff ratings shown in Parts 1, 2, 9, 10, 22, and 23 of Exhibit 2. As to the other parts of Exhibit 2, she testified that she relied on information furnished by the driver as to whether

the origin and destination of a shipment were served by rail facilities; that if errors did occur in connection with off-rail charges, they were due to inaccuracies in the information furnished by the drivers; and that the other rating errors were inadvertent mistakes.

With respect to Parts 1, 2, 9, 10, and 22 of Exhibit 2, the secretary-treasurer stated that she did not agree with the off-rail charge at destination shown in the staff ratings. She pointed out that the transportation covered by each part was delivered to the Reliable Lumber Company, Rosemead. She stated that although Reliable's yard is not served by rail facilities, Reliable leases additional property from the Southern Pacific Company which is served by rail. The leased premises are separated from Reliable's yard by intervening property not owned by Reliable. The witness testified that to her knowledge the transportation in question was delivered to the leased premises. The staff pointed out that the freight bills and underlying documents for the transportation covered by Parts 1, 2, 9, 10, and 22 each show that delivery was made to Reliable Lumber Company, 8614 Valley Boulevard, Rosemead, which is the location of the consignee's yard and is not served by rail facilities.

The secretary-treasurer testified that the three truckloads of plywood covered by Part 23 of Exhibit 2 were all delivered to C. E. Williams' yard at Ontario and not to C. E. Williams' three yards at Ontario, South San Gabriel and Terminal Island as shown by the staff in its rating of this transportation. She pointed out that the freight bills and bills of lading issued for the three truckloads each show C. E. Williams, Ontario as the destination. The witness stated that the dispatch sheets for the

three loads which show deliveries to the three yards were in error. The staff witness testified that he had been informed by the bookkeeper of C. E. Williams that the foreman at the Terminal Island yard had signed for the truckload that the staff alleged was delivered to Terminal Island. No additional evidence was offered by the staff as to whether the load it alleged was delivered to South San Gabriel was in fact delivered there. The staff also pointed out that one of the truckloads was picked up at two locations; that the provisions of the split pick up rule had not been complied with; and that it was therefore necessary to rate each pick up as a separate shipment.

According to the Commission records respondent was sent undercharge letters on August 12, 1960, and October 19, 1961.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 23-1407, Highway Contract Carrier Permit No. 23-1033 and City Carrier Permit No. 23-1408.
2. Respondent was served with appropriate tariffs and distance tables.
3. The transportation covered by Parts 1, 2, 9, 10, and 22 of Exhibits 1 and 2 was delivered to Reliable Lumber Company, 8614 Valley Boulevard, Rosemead, which is not served by rail facilities.
4. The precise undercharge on Part 23 cannot be determined from the record.
5. The staff ratings shown in Parts 1 through 22 of Exhibit 2 are correct.
6. Respondent charged less than the lawfully prescribed minimum rate for the transportation covered by Parts 1 through 22 of Exhibit 2, resulting in undercharges in the amount of \$1,148.34.

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 pursuant to Section 3800 of the Public Utilities Code in the amount of \$1,148.34, and in addition thereto respondent should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$500.

The Commission expects that 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 \$1,648.34 to this Commission on or before the twentieth day after the effective date of this order.
2. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein and shall notify the Commission in writing upon the consummation of such collections.
3. In the event undercharges ordered to be collected by paragraph 2 of this order, or any part of such undercharges, remain

uncollected sixty days after the effective date of this order, respondent shall proceed promptly, diligently and in good faith to pursue all reasonable measures to collect them; respondent shall file with the Commission, on the first Monday of each month after the end of said sixty days, 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 Los Angeles, California, this 18<sup>th</sup> day of May, 1965.

Frederick B. Holbrook  
President  
George L. Hoover  
W. J. ...

Commissioners

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