

Decision No. 69087

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 COOPER)
TRUCKING, INC., a corporation.)

Case No. 8010

E. H. Griffiths and Hugh N. Orr, for respondent.
Elmer Sjostrom and E. E. Cahoon, for the
Commission staff.

O P I N I O N

By its order dated September 22, 1964, the Commission instituted an investigation into the operations, rates and practices of Cooper Trucking, Inc., a corporation.

A public hearing was held before Examiner Porter on March 24, 1965 at Ukiah.

Respondent presently conducts operations pursuant to a radial highway common carrier permit. Respondent has terminals in Ukiah and Cloverdale. It operates 4 tractors, 7 trucks, 10 semi and 15 full trailers. Its personnel consists of 3 mechanics, 15 drivers and 1 office employee. Its gross revenue for the year 1964 was \$371,051. Copies of the appropriate tariffs and distance table 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 October 1963 through March 1964.

Underlying documents relating to 49 shipments of lumber were submitted to the Rate Analysis Unit of the Commission's Transportation Division. Based upon the data taken from said shipping

document 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 \$1,273.38. A rate expert testified that the underlying cause of these undercharges was the failure to include off-spur charges when applicable either at point of origin or destination. Evidence was also introduced showing that respondent had extended credit for transportation charges beyond the period allowed by Item 250-A of Minimum Rate Tariff No. 2.

The president of respondent company testified that he had extended the credit to the lumber mill because the mill had suffered damage in a windstorm and was pressed for cash. He further testified that the freight charges were paid. The company relied upon the drivers and industrial guides for information as to rail facilities at points of origin and destination.

The representative of the Field Section personally inspected the points in question as to the availability of rail facilities and determined whether they were on rail or off rail.

After consideration the Commission finds that:

1. Respondent operates pursuant to radial highway common carrier.
2. Respondent was served with appropriate tariffs and distance tables.
3. Respondent charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibit 3 resulting in undercharges in the amount of \$1,273.38.

Respondent also violated Section 3737 of the Public Utilities Code by failing to collect charges for the transportation

of property within the credit period specified in Item 250-A of Minimum Rate Tariff No. 2.

Respondent is admonished that all rules of the Commission must be observed.

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 \$1,273.38, and that 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 \$1,773.38 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 18th day of May, 1965.

Fredrick B. Hallock
President
Walter D. Smith
George L. Hoover
Wagner
Commissioners

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