

ORIGINAL

Decision No. 70025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of TERMINAL
TRANSPORTATION CO., INC.

Case No. 8073
(Filed December 9, 1964)

Willard L. Ryan and Gerald D. Petty, for
respondent.
B. A. Peeters and G. T. Kataoka, for the
Commission staff.

O P I N I O N

On December 9, 1964, the Commission instituted an investigation into the operations, rates and practices of respondent, Terminal Transportation Co., Inc. Public hearings were held before Examiner Chiesa on February 10 and March 17, 1965, at Los Angeles, at which time the matter was submitted.

The evidence shows that:

Respondent is an authorized, radial highway common carrier and city carrier, having been issued Permits Nos. 19-56607 and 19-56608, respectively, on June 4, 1963. Copies of appropriate tariffs and distance table were served upon respondent. Its principal place of business and terminal is located in Long Beach at 6252 Paramount Boulevard. In addition to its president and his wife the Company employs one dispatcher and from five to seven drivers. Five tractors and seven trailers are used. Its gross operating revenue including revenue from its I.C.C. operations for the four quarters ending September 30, 1964, was \$239,100, 65 per cent of which is derived from intrastate business.

Between August 31 and September 4, 1964, staff members examined respondent's books and records and had interviews with the Company personnel. The period covered by the investigation was January through July 1964. During said period approximately 1,200 intrastate shipments were transported, 14 of which were analyzed by Commission staff members and show undercharges totaling \$2,223.64, as set forth in Parts 1 through 14 of Exhibits 2 and 3. The undercharges resulted from respondent's failure to assess proper rates and charges as specifically set forth in the Appendix to Exhibit 3 and as explained by staff witnesses.

Undercharges resulted from errors due to misapplication of the prescribed minimum rates (Parts 1, 3 and 4); violation of split delivery and split pickup regulations by consolidating shipments that should have been rated separately (Parts 2, 7, 8 and 13); charging a lower rail rate than prescribed (Part 5); failure to charge for movement from point of pickup to rail team track (Part 6); erroneously consolidating shipments in the absence of appropriate shipping documents pertaining to multiple shipments (Parts 9, 10, 11 and 12); and failure to add an off-rail charge and a surcharge (Part 14).

The evidence shows that the shipments set out in Parts 2, 3, 4, 5 and 6 of Exhibit 3, were tendered by L. B. Foster Co. at its yard situated on a private road approximately one block east of 223rd Street in the Dominguez area of Los Angeles County. L. B. Foster Co. also stores its products (principally steel pipe) in a second yard located at 2328 223rd Street in the same area, said yards being designated Locations 1 and 2, respectively. Location 2

is served by a rail spur. Respondent's witnesses contend that Location 1 is also a rail point. The evidence shows that the L. B. Foster Co. lot on the private road (Location 1) is entirely surrounded by a 6-foot chain link fence. Along and outside of said fence there is a spur track serving industries northeasterly of the L. B. Foster Co. lot.

One of respondent's witnesses testified that some rail shipments are received and shipped by rail from said Location 1 by unloading and loading rail cars over the fence; therefore, respondent claims it properly charged rail rates on truck shipments originating at said location.

We do not agree with respondent's contention and find that Location 1 of the L. B. Foster Co., located on the private road as described hereinabove, is not on rail. There is no evidence that any of the shipments shown in Parts 2, 3, 4, 5 and 6 moved from Location 2 of the L. B. Foster Co. situated on 223rd Street.

Respondent was cooperative in the investigation and there is no evidence that any undercharge was intentional.

Based on the evidence we find that:

1. Terminal Transportation Co., Inc., a corporation, respondent herein, operates pursuant to a radial highway common carrier permit and city carrier permit, Nos. 19-56607 and No. 19-56608, respectively.
2. Appropriate tariffs and distance table were served on respondent.
3. Respondent assessed and collected less than the applicable minimum rates and charges as shown in Parts 1 to 14, inclusive, of Exhibit 3, and Appendix thereto, resulting in total undercharges amounting to \$2,223.64.

Based upon the foregoing findings, the Commission concludes that respondent violated Sections 3667, 3668 and 3737 of the Public Utilities Code and should pay a fine in the amount of the total undercharges.

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. Terminal Transportation Co., Inc., a corporation and respondent herein, shall pay a fine of \$2,223.64 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 San Francisco, California, this 30th day of NOVEMBER, 1965.

Frederick A. Heilehoff
President

Paul E. [unclear]

George T. Trover

William M. [unclear]

Commissioners

Commissioner A. W. Gatev, being necessarily absent did not participate in the disposition of this proceeding.