

ORIGINALDecision No. 70404

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of FRANS M.
KNOFLOOK, an individual, doing
business as BANEWELL TRUCKING.

Case No. 8239
(Filed August 20, 1965)

Franciscus M. Knoflook, for Banewell Trucking,
respondent.
David R. Larrouy and E. E. Cahoon, for the
Commission staff.

O P I N I O N

By its order dated August 10, 1965, the Commission instituted an investigation into the operations, rates and practices of Frans M. Knoflook, doing business as Banewell Trucking.

A public hearing was held before Examiner Porter on December 7, 1965 at Los Angeles at which time the matter was submitted.

Respondent conducted operations pursuant to Radial Highway Common Carrier Permit No. 19-55850 and Cement Contract Carrier Permit No. 19-57238. The respondent's equipment as of March 1, 1965 consisted of two tractors, one semitrailer, one set of doubles, and one forklift and as of that date he employed two part-time drivers. Respondent's operating revenue for the four quarters ending September 30, 1964 amounted to \$16,297. Copies of the appropriate tariffs and distance table were served upon respondent.

The staff presented evidence that respondent had by letter dated July 3, 1963 been instructed to audit his records for possible undercharges. The audit was completed October 1, 1964 and developed undercharges in the amount of \$2,155.11 due from a shipper, Associated

Materials Co., Inc. Respondent admitted to the staff representative that this sum was collected and then paid back to the shipper.

The staff also presented evidence that respondent had undercharged in the amount of \$1,252 as shown in Exhibit No. 2. These undercharges resulted from the application of rates less than those in Minimum Rate Tariff No. 10 for shipments of sacked cement and improper assessment of hourly rates to traffic subject to minimum rates prescribed in Minimum Rate Tariff No. 2.

The respondent testified that he made the repayment of the undercharge to retain the business of the shipper; shipper is going through bankruptcy; respondent has disposed of his equipment and is now working as a mechanic and his permits have been suspended.

After consideration the Commission finds that:

1. Respondent operated pursuant to a radial highway common carrier permit and a cement contract carrier permit.
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 No. 2, resulting in undercharges in the amount of \$1,252.
4. Respondent remitted to Associated Materials Co., Inc., the amount of \$2,155.11 due as undercharges.

Based on the foregoing findings of fact the Commission concludes that respondent violated Sections 3664, 3667 and 3737 of the Public Utilities Code.

O R D E R

IT IS ORDERED that respondent's Radial Highway Common Carrier Permit No. 19-55850 and Cement Contract Carrier Permit No. 19-57238 are revoked.

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 1st day of MARCH, 1966.

Fredrick H. Holhoff
President

John E. Quill

George F. Hoover

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Commissioners

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