

Decision No. 71420**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 DALLAS H. BLACK. )

Case No. 8372

William H. Kessler, for Dallas H. Black, Respondent.  
John C. Gilman and J. B. Hammigan, for the Commission  
staff.O P I N I O N

By its order dated March 22, 1966, the Commission instituted an investigation into the operations, rates and practices of Dallas H. Black.

A public hearing was held before Examiner Porter on June 21, 1966, at Fresno and the matter was submitted.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 10-7216. He has a terminal at Fresno. Respondent as of September 15, 1965, owned and operated four trucks; three tractors; two semi-trailers, bulk; two trailers, bulk; and four trailers, flat. On the average he employs five to seven drivers, one dispatcher and one part-time bookkeeper. His operating revenues, reported to the Commission for the last three quarters of 1965 and the first quarter of 1966, amounted to \$86,237. Copies of the appropriate tariff and distance table were served upon respondent.

A representative of the Commission's License and Compliance Branch visited respondent's place of business and checked his records for the period November 1964 through April 1965.

The staff of the Commission presented evidence regarding 212 shipments of cement pipe, gates and valves. The valves were described as fixtures built into pipe, making the entire piece of pipe a valve. Also presented was a document showing a shipment of wire. The respondent does not have authority to transport wire. Further, the staff presented evidence as to shipments wherein the respondent had charged an hourly rate. These shipments were not ratable by the Rate Analysis Unit as the respondent had not maintained proper shipping documents.

The Rate Analysis Unit rated the above-mentioned 212 shipments and, as shown in Exhibit 4, developed undercharges in the amount of \$3,585.65. The shipment of wire showed an undercharge of \$28 (Exhibit 5). The undercharges were caused by failure to apply the proper tariff rate.

The respondent presented evidence that his tariff was not up to date and the person doing the rating had been applying an old rate. As to the shipment of wire, this had been a one-shipment movement as an accommodation to a local merchant. Respondent did not realize that he did not have authority to transport wire. As for the shipments wherein he had used an hourly rate these shipments were of small quantities, generally animal feed, and he would not have realized a profit if he had applied the minimum rate. The shipments were made as an accommodation to chicken farmers for whom he hauled live chickens (an exempt commodity).

Respondent, prior to this investigation, had been advised of the necessity of maintaining proper documents so that shipments might be properly rated.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 10-7216.

2. Respondent was served with the appropriate tariff and distance table.

3. Respondent violated Section 3571 of the Public Utilities Code by transporting goods not authorized to be carried under his permit.

4. Respondent violated Section 3664 and 3667 of the Public Utilities Code by charging and collecting less than the minimum rates established by the Commission as shown in Exhibits 4 and 5, resulting in undercharges of \$3,613.65.

5. Respondent violated Sections 3704 and 3737 of the Public Utilities Code by failing to prepare and maintain copies of transportation documents in the form and manner prescribed by Item 255 of Minimum Rate Tariff No. 2.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3571, 3664, 3667, 3704 and 3737 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$3,613.65 and in addition thereto respondent shall 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 his 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 \$4,113.65 to this Commission on or before the fortieth 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. Respondent shall proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharges, and 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 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.

4. Respondent shall cease and desist from charging and collecting compensation for the transportation of property or for any service in connection therewith in a lesser amount than the minimum rates and charges prescribed by this Commission.

5. Respondent shall cease and desist from transporting property not authorized under his permit.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent. The

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effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 18<sup>th</sup>  
day of OCTOBER, 1966.

[Signature]  
President

[Signature]

[Signature]

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Commissioners