

Decision No. 71680**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, charges and practices of
RICHARD EGGLETON, an individual.

Case No. 8384 ✓
(Filed March 29, 1966)

John T. Underwood, for the respondent.
Robert C. Marks and J. B. Hannigan, for the
Commission staff.

O P I N I O N

By its order dated March 29, 1966, the Commission instituted an investigation into the operations, rates and practices of Richard Eggleton.

A public hearing was held before Examiner Fraser on July 19, 1966, at Stanton and the matter was submitted.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 30-2020. He has a terminal in Stanton. Respondent owns and operates eight trucks, eight full trailers, one semitrailer and one tractor. He employs seven to twelve drivers and one mechanic. He and his wife do the necessary office work and he does all of the rating. His operating revenues, reported to the Commission for the last three quarters of 1965 and the first quarter of 1966, amounted to \$162,686. 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 his records for the period January 1 through June 28, 1965. About 200 freight bills were examined and the documents relating to 16 shipments were taken from the respondent's files and photocopied. Said photocopies were submitted to the Rate Analysis Unit of the Commission's

Transportation Division. Based upon the data taken from said photocopies, which were placed in evidence as Exhibit 1, a rate study was prepared and introduced in evidence as Exhibits 2, 3 and 4. Said exhibits reflect purported undercharges in the amount of \$917.19.

The staff exhibits show that respondent improperly combined the weights of separate shipments and rated them as consolidated lots but failed to receive written instructions from the shipper and failed to issue a single shipping document as required by the multiple lot rule in the tariff; that respondent charged a flat rate (negotiated with the shipper) on nine parts (Parts 6 through 14, Exhibit 2); and eliminated the off-rail surcharge on two parts (Exhibits 2 and 4).

Respondent testified that he thought his rates were correct. He stated that the staff witness gave no instruction and made no comment when he checked respondent's records. Respondent was told by the shipper that the off-rail points were on rail and he rated them according to the information he received. He charged a flat rate based on a board-foot measure because he thought the rate was substantially over the minimum and the transportation was profitable to him and the shipper.

Respondent has had a prior formal proceeding before the Commission (Decision No. 62958, dated December 19, 1961, in Case No. 7141) wherein a five-day suspension was ordered because of rebates to shippers through a dispatching charge. Staff counsel recommended a punitive fine of \$1,000 in addition to a fine in the amount of the undercharges.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 30-2020.
2. Respondent was served with the appropriate tariffs and distance table.
3. Respondent charged less than the lawfully prescribed minimum rate in the instances set forth in Exhibits 2, 3 and 4, resulting in undercharges in the amount of \$917.19.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3664, 3667 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 \$917.19, and in addition thereto respondent should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$1,000.

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 either 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.

ORDER

IT IS ORDERED that:

1. Respondent shall pay a fine of \$1,917.19 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. 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, 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.

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 13th day of DECEMBER, 1966.

[Signature]
President
George H. Hoover
Fredrick B. Holhoff
[Signature]
William W. Bonnell
Commissioners