

ORIGINAL

Decision No. 72155

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the rates, opera-)
tions, and practices of CERUTTI &)
THOMPSON TRANSPORTATION COMPANY,)
Riverdale, California.)

Case No. 8529
Filed September 20, 1966

Robert S. Crossland, for respondent.
David R. Larrouy and Richard Carlin,
for the Commission staff.

O P I N I O N

By order dated September 20, 1966, the Commission instituted an investigation into the rates, operations, and practices of Cerutti & Thompson Transportation Company. Public hearing was held before Examiner Barnett at Fresno on January 24, 1967, at which time the matter was submitted.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 10-3446. It was stipulated that respondent had been served with Minimum Rate Tariff No. 7 (MRT 7) and supplements thereto. The order instituting investigation alleges that respondent may have violated Sections 3704 and 3737 of the Public Utilities Code by failing to complete, execute, and retain shipping documents in the form and manner prescribed by Items 93 and 93.1 of MRT 7.

Respondent operates six trucks and seven trailers from his terminals at Riverdale and Madera. It has nine employees. Its gross revenue from operations for the year 1965 was \$307,702.76.

It was stipulated that neither undercharges nor falsification of documents were issues in this proceeding.

The staff presented one witness, a transportation representative, who testified that he inspected respondent's records for the period October 1965 to March 1966. Twenty freight bills were copied and introduced into evidence. In the witness' opinion all 20 freight bills did not comply with the documentary requirements specified in Item 93.1 of MRT 7 in that certain required information was omitted therefrom. It would serve no useful purpose to set forth all the omissions as they are numerous and there is no dispute as to their occurrence. Selected omissions include: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and overall time. The omitted information is necessary to determine whether the rate assessed for the transportation is correct.

Respondent did not contest the staff's allegations. Respondent's operating officer testified that it is impractical to obtain the proper documents to comply with either Item 93 or 93.1 of MRT 7. The commodities in question (rock and aggregates) actually moved under Item 93 of MRT 7 but, because respondent did not obtain a distance rate notice as required by Item 93, the requirements of Item 93.1 had to be complied with, which was not done. The witness testified that he will comply with the appropriate tariff items in the future but that to do so will mean delay in transportation, higher costs, and loss of business.

Findings of Fact

1. Respondent operates pursuant to a radial highway common carrier permit.
2. Respondent was served with MRT 7 and supplements.
3. Respondent omitted to insert part of the information required by Item 93.1 of MRT 7 on his freight bills. The information omitted includes, but is not limited to: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and overall time.

Conclusion of Law

Based on the foregoing findings of fact the Commission concludes that respondent violated Sections 3737 and 3704 of the Public Utilities Code and that respondent's operating authority should be suspended, pursuant to Section 3774 of the Code, for a period of one year with the execution thereof deferred during said one-year period. If, at the end of the one-year period, the Commission is satisfied that respondent is in substantial compliance with the documentation requirements in issue, the suspension will be vacated without further order of the Commission.

The staff of the Commission will make a subsequent field investigation to determine whether respondent is complying with the documentation requirements in issue. If there is reason to believe that respondent is continuing to violate said provisions, the Commission will reopen this proceeding for the purpose of formally inquiring into the circumstances and for the purpose of determining whether the one-year suspension or any further sanctions should be imposed.

O R D E R

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 10-3446, issued to Cerutti & Thompson Transportation Company, is hereby suspended for a period of one year, provided, however, that the execution thereof is hereby deferred pending further order of this Commission. If no further order of this Commission is issued affecting said suspension within one year from the date of issuance of this decision, the suspension shall be automatically vacated.

2. Respondent shall cease and desist from violating the documentation provisions of the Commission's minimum rate tariffs.

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 14th day of MARCH, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners