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**ORIGINAL**

Decision No. 72619

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  
 TALBOT TRUCKING COMPANY, a  
 corporation; KARLSON BROS. TRUCKING  
 SERVICE, a corporation; and THE  
 GRANGE COMPANY, a corporation.

Case No. 8590  
 (Filed February 7, 1967)

Willard S. Johnson and Berol, Loughran & Geernaert,  
 by Frank Loughran, for respondents.  
Harley C. Hardesty and J. B. Hannigan, for the  
 Commission staff.

O P I N I O N

By its order dated February 7, 1967, the Commission instituted an investigation of Talbot Trucking Company, a corporation (Talbot); Karlson Bros. Trucking Service, a corporation (Karlson); and The Grange Company, a corporation (Grange). The purpose of the investigation of Talbot is to determine whether Talbot permitted Grange by means of a device to obtain transportation of property at less than the minimum rates prescribed or approved by the Commission in violation of Section 3668 of the Public Utilities Code, and whether Talbot charged and collected a lesser sum for transportation than the applicable charges prescribed in Minimum Rate Tariff No. 2 and supplements thereto in violation of Sections 3664 and 3737 of the Code. It was moved by both the Commission staff and counsel for respondents that Karlson be dismissed as a respondent herein.

Public hearing was held before Examiner Mooney at San Francisco on April 19, 1967.

Talbot, Grange and the Commission staff stipulated as follows:

1. Talbot was issued Radial Highway Common Carrier Permit No. 50-2809, Highway Contract Carrier Permit No. 50-4431 and City Carrier Permit No. 50-4432.

2. Grange has owned all of the stock of Talbot since May 9, 1963, and on December 1, 1965 (subsequent to the period covered by staff investigation herein) became owner of all of the stock of Karlson. Neither Grange nor Talbot owned any stock of Karlson prior to said date.

3. Talbot has offices in Modesto and Montebello and terminals in Manteca and Modesto. It operates 31 tractors, 3 trucks and 83 trailers. Talbot's gross operating revenue for the year 1965 was \$1,069,560. It was served with Minimum Rate Tariffs Nos. 2 and 14-A and Distance Table No. 5, together with all supplements and additions to each.

4. On May 3, 1966, Talbot's permits were restricted to provide that whenever it engages other carriers in connection with the transportation of property for Grange, or the customers or suppliers of Grange, such other carriers shall not be paid less than the applicable minimum rates, and that it shall not transport property under its permits when such transportation is covered by the highway common carrier operative authority of Karlson.

5. On April 11 through 15, 1966, a Commission representative visited Talbot's place of business and reviewed its records for the period August 1965 through November 1965. The representative made copies of certain shipping documents in Talbot's files which were submitted to the Rate Analysis Unit of the Commission's Transportation

Division. Based on the data taken from the documents a rate study was prepared. The rate study is attached to Exhibit 1 as Appendices 1 through 4. Appendix 3 includes 10 parts which are examples of instances wherein Talbot was engaged by Grange to perform transportation for it, and the actual hauling was performed by a purported subhauler (Bert Prouty) who was paid less than the applicable minimum rates. Appendix 4 includes four parts wherein undercharges in the total amount of \$189.74 are disclosed in connection with transportation by Talbot for Grange. Appendices 1 and 2 include 4 parts which cover transportation for independent shippers. In each of the 4 parts, Talbot charged less than the applicable minimum rates. The total of the undercharges in Appendices 1 and 2 is \$142.07.

6. Talbot has paid the purported subhauler who performed the actual transportation services covered by Appendix 3 the difference between the amount originally paid and the applicable rates for said transportation.

7. Talbot has issued balance due bills for all undercharges in Appendices 1, 2 and 4.

The Commission staff recommended that Talbot be fined pursuant to Section 3800 of the Public Utilities Code in the amount of the undercharges found herein. No punitive fine was recommended. Counsel for Talbot asserted that the violations were unintentional and were corrected as soon as they were brought to Talbot's attention.

After consideration the Commission finds that:

1. Talbot operates pursuant to Radial Highway Common Carrier Permit No. 50-2809, Highway Contract Carrier Permit No. 50-4431 and City Carrier Permit No. 50-4432.

2. Talbot was served with appropriate tariffs and distance table.

3. Grange has owned all of the stock of Talbot since May 9, 1963; hence, for the purposes of this proceeding, their separate corporate identities should be disregarded. ✓✓

4. The staff rating of the transportation covered by Appendices 1 through 4 of Exhibit 1 is correct.

5. The transportation covered by Appendices 1 and 2 of Exhibit 1 was performed by Talbot for independent shippers who were not related in any manner to Grange, Talbot or Karlson.

6. Talbot charged less than the lawfully prescribed minimum rates in the instances referred to in Finding 5, resulting in undercharges in the total amount of \$142.07.

7. Talbot engaged Bert Prouty, a highway permit carrier, as a purported subhauler to transport property of Grange in the instances set forth in all 10 parts of Appendix 3 of Exhibit 1 and paid said purported subhauler \$435.54 less than the applicable minimum rates.

8. The purported subhauler, Bert Prouty, was in fact a prime carrier who should have been paid not less than the minimum rates established by the Commission for the transportation referred to in Finding 7.

9. Talbot has paid the purported subhauler, Bert Prouty, \$435.54 which represents the difference between the amount originally paid said purported subhauler and the applicable rates for the transportation covered by Appendix 3 of Exhibit 1.

10. The 4 parts of Appendix 4 of Exhibit 1 relate to transportation by Talbot for Grange. Talbot charged less than the lawfully prescribed minimum rates in the instances set forth in Appendix 4, resulting in undercharges in the total amount of \$189.74.

11. Talbot's permits referred to in Finding 1 were amended on May 3, 1966 to provide that whenever it engages other carriers to transport the property of Grange, or the customers or suppliers of Grange, it shall not pay such other carriers less than the applicable minimum rate for said transportation.

12. During the period covered by the staff investigation (August 1965 through November 1965), neither Grange nor Talbot held any ownership interest in Karlson and did not control or manage Karlson.

Based upon the foregoing findings of fact, the Commission concludes that:

1. Talbot violated Sections 3664, 3668 and 3737 of the Public Utilities Code.
2. Talbot should pay a fine, pursuant to Section 3800 of the Public Utilities Code, in the amount of \$331.81.
3. Karlson should be dismissed as a respondent herein.

The Commission expects that Talbot will proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharges referred to in Findings 6 and 10 and to pay the purported subhauler (Bert Prouty) the amount referred to in Finding 7. The staff of the Commission will make a subsequent field investigation into the measures taken by Talbot and the results thereof. If there is reason to believe that Talbot, or its attorney,

has not been diligent, or has not taken all reasonable measures to collect all undercharges and pay the amount due the purported subhauler (Bert Prouty), 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.

Talbot is placed on notice that the fact it is affiliated with Grange does not relieve it, when it transports the property of its affiliated company and does not engage other carriers to do the actual hauling, from any of the duties, obligations or responsibilities imposed on permitted carriers by law.

O R D E R

IT IS ORDERED that:

1. Talbot Trucking Company, a corporation, shall pay a fine of \$331.81 to this Commission on or before the fortieth day after the effective date of this order.
2. Talbot Trucking Company, a corporation, shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, and shall pay to the purported subhauler (Bert Prouty) the total amount payable to said purported subhauler set forth herein. Talbot Trucking Company, a corporation, shall notify the Commission in writing upon the consummation of such collections and payments.

3. Talbot Trucking Company, a corporation, shall proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharges and make the payments to the purported subhauler (Bert Prouty), and in the event undercharges ordered to be collected or payments ordered to be made by paragraph 2 of this order, or any part of such undercharges or payments, remain uncollected or unpaid sixty days after the effective date of this order, Talbot Trucking Company, a corporation, 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 the amount of payment remaining to be made specifying the action taken to collect such undercharges and make such payments, and the result of such action, until such undercharges have been collected in full and such payments have been made in full or until further order of the Commission.

4. Talbot Trucking Company, a corporation, 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 the Commission.

5. Talbot Trucking Company, a corporation, whenever it engages other carriers in connection with the transportation of property for The Grange Company, a corporation, or its customers or suppliers, shall cease and desist from paying such other carriers less than the applicable minimum rates established by the Commission.

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6. Karlson Bros. Trucking Service, a corporation, is dismissed as a respondent herein.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 20<sup>th</sup>  
day of JUNE, 1967.

*Edward E. Mitchell*  
President

*William H. Bennett*

*Augusta*

*William J. ...*

*Paul P. Morrissey*  
Commissioner