

ORIGINALDecision No. 73366

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of ROE'S
TRUCKING COMPANY, INC., a
corporation.

Case No. 8598

Frank R. Wampler, for respondent.S. M. Boikan, Counsel, and E. Hjelt,
for the Commission staff.O P I N I O N

By its order dated February 28, 1967, the Commission instituted an investigation into the operations, rates and practices of Roe's Trucking Company, Inc., hereinafter referred to as respondent.

A public hearing was held before Examiner Porter on April 27, 1967 and August 31, 1967, in Los Angeles, and the matter was submitted.

Respondent presently conducts operations pursuant to radial highway common carrier, highway contract carrier and city carrier permits. Respondent has a terminal at Vernon, California. As of December 20, 1965 it owned four tractors, four trailers and fifteen trucks and employed seventeen drivers and four office employees. The operating revenue for the year ended April 1, 1967 amounted to \$308,289. A copy of the appropriate tariff and distance table were served upon respondent.

A representative of the Commission's Field Section visited respondent's place of business and checked all of respondent's records for the period June 1, 1965 to December 1, 1965.

Documents covering one hundred and twenty-nine shipments were copied and introduced as Exhibit No. 1. The staff presented evidence that respondent included, in multiple-lot shipments, lots picked up later than the second calendar day following the pickup of the first lot included in those shipments, in violation of Item 85 of Minimum Rate Tariff No. 2 and, further, with regard to split delivery shipments undercharges resulted from the failure to prepare at or before the time of pickup, a shipping document in conformity with Item 170 of Minimum Rate Tariff No. 2.

The staff rate expert testified that undercharges in the amount of \$2,913.38 resulted as reflected by Exhibit No. 3.

Respondent stipulated to the facts presented.

The Commission finds that:

1. Respondent operates pursuant to radial highway common carrier, highway contract carrier and city carrier permits.
2. Respondent was served with Minimum Rate Tariff No. 2 and Distance Table No. 5, together with all supplements and additions thereto.
3. Respondent did not comply with the requirements of Minimum Rate Tariff No. 2, Items 85 and 170 in regard to multiple-lot shipments and split delivery shipments.
4. Respondent charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibit No. 3, resulting in undercharges in the amount of \$2,913.38.

The Commission concludes that respondent violated Sections 3737, 3664 and 3668 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$2,913.38 (the amount of undercharges shown in Exhibit No. 3). Respondent should not pay an additional fine pursuant to Section 3774 of the Public Utilities Code. ✓

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 its 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 \$2,913.38 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 (Exhibit No. 3) 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

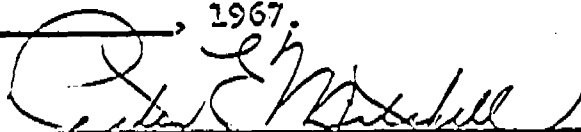
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undercharges, and the result of such action, until such undercharges have been collected in full or until further order of the Commission.

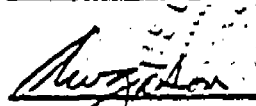
4. Respondent shall cease and desist from charging and collecting compensation for the transportation of property or for any service in connection therewith in a lesser amount than the minimum rates and charges prescribed by this Commission.

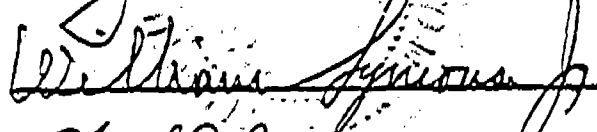
The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent. The effective date of this order shall be twenty days after the completion of such service.

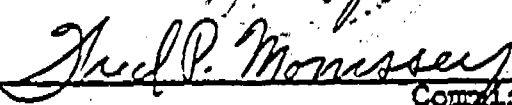
Dated at San Francisco, California, this
21st day of NOVEMBER, 1967.



President







Commissioners

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