

ORIGINALDecision No. 73484

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of THE PAPER
TRANSPORT COMPANY, a corporation.

Case No. 8632
(Filed May 23, 1967)

Handler, Baker and Greene by
Marvin Handler, for respondent.
Elinore C. Morgan, Counsel, and
E. E. Cahoon, for the Commission
staff.

O P I N I O N

By its order dated May 23, 1967, the Commission instituted an investigation into the operations, rates and practices of The Paper Transport Company, a corporation.

A public hearing was held before Examiner O'Leary at San Francisco on October 3, 1967, on which date the matter was submitted.

Respondent conducted operations pursuant to Radial Highway Common Carrier Permit No. 43-6098, Highway Contract Carrier Permit No. 38-7515 and City Carrier Permit No. 43-6099. Respondent's terminal is located at San Jose. It operated seventy pieces of equipment and employed twenty-seven persons. Its gross operating revenue for the four quarters ending June 30, 1967 was \$882,520. Copies of the appropriate tariffs and distance table were served upon the respondent.

During the period November 14 to 18, 1965 and on December 5, 1965, a representative of the Commission's Field Section visited respondent's place of business and examined its transportation records for the period March 1965 to November 1965, inclusive. The

field representative reviewed approximately 9,000 shipments that were transported during said period. The underlying documents relating to thirty-eight shipments were taken from respondent's files, photocopied and forwarded to the License and Compliance Branch of the Commission's Transportation Division. The copies of the shipping documents comprise Exhibit 1. Based upon the data taken from the documents, as well as information supplied by the field representative, rate studies were prepared and introduced in evidence as Exhibits 2 through 4. Said exhibits reflect asserted undercharges of \$4,521.64.

Respondent did not dispute the staff ratings in connection with Exhibit 2, which pertains to 2 shipments transported for Fibreboard Paper Products.

Exhibit 3 pertains to 13 shipments transported for Com-Co Paper Stock Co., wherein the staff alleges that respondent did not comply with Item 85 of Minimum Rate Tariff No. 2 in that shipments were not picked up within the specified time period and required written information was not received from the consignor prior to or at the time of the first pickup. Exhibit 10 which was prepared by respondent's rate expert discloses that respondent disputes the staff rating in connection with Parts 3, 6, 8, 9, 10 and 13 of Exhibit 3. The ratings in Exhibit 10 differ from those in Exhibit 3 because respondent's rate expert rated the component parts moving within the specified time period as a single shipment. The staff rate expert rated each component part as a separate shipment. The field representative testified that the bills of lading for the shipments in question were prepared by the carrier.

Exhibit 4 pertains to transportation performed for Gateway Distributing Company, wherein the staff alleges with respect to all Parts, except 11 and 14, that respondent assessed improper rates.

With respect to the shipments covered by Parts 11 and 14, the staff alleges that respondent improperly consolidated shipments of empty pallets returning. Respondent does not dispute the staff's allegation with respect to the consolidation of empty pallets nor does it dispute the staff ratings as shown in Parts 4, 13, 16 and 22 of Exhibit 4. With respect to the remaining parts of Exhibit 4, respondent's rate expert contends that the shipments can be properly rated pursuant to Item 2960 of Pacific Southcoast Freight Bureau Tariff No. 294-E. The staff rate expert testified that said item cannot be utilized to rate the shipments because the tariff does not contain an authorized route between origin and destination.

The vice-president of respondent testified that it has always been the intent of respondent to assess legal rates. Approximately three years ago Georgia-Pacific Corporation acquired all of the stock of respondent. Respondent has employed the services of rate consultants since 1959.

On October 16, 1967, an application was filed to transfer respondent's permits to Georgia-Pacific Corporation. By letter dated October 19, 1967, the vice-president of Georgia-Pacific Corporation committed his company to fulfillment of all demands set forth by the Commission's order in this case. The permits of respondent were transferred to Georgia-Pacific Corporation on November 6, 1967.

After consideration the Commission finds that:

1. Respondent operated pursuant to radial highway common carrier, highway contract carrier and city carrier permits.
2. Respondent was served with the appropriate tariff and distance table.
3. The written information required to be furnished by the shipper pursuant to Item 85 of Minimum Rate Tariff No. 2 was not furnished in connection with the shipments covered by Exhibit 3.

4. The rate published in Item 2960 of Pacific Southcoast Freight Bureau Tariff No. 294-E cannot be utilized in rating the shipments in Exhibit 4 since there is no routing published between origin and destination.

5. Respondent charged less than the lawfully prescribed minimum rate for the transportation covered by Exhibits 2, 3 and 4, resulting in undercharges of \$4,521.64.

6. Respondent's permits have been transferred to Georgia-Pacific Corporation.

7. Georgia-Pacific Corporation has committed itself to fulfill all demands set forth in the following order.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3664 and 3737 of the Public Utilities Code and that Georgia-Pacific Corporation, as successor to respondent should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$4,521.64 and that in addition thereto Georgia-Pacific Corporation, on behalf of respondent, should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$500.

The Commission expects that Georgia-Pacific Corporation 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 Georgia-Pacific Corporation and the results thereof. If there is reason to believe that Georgia-Pacific Corporation 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. Georgia-Pacific Corporation shall pay a fine of \$5,021.64 to this Commission on or before the twentieth day after the effective date of this order.

2. Georgia-Pacific Corporation 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. Georgia-Pacific Corporation 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, Georgia-Pacific 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, 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.

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

Dated at San Francisco, California, this 19th
day of DECEMBER 1967.

[Signature]
President

[Signature]

[Signature]

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Commissioners