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ORIGINAL

Decision No. 73524

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
SHROPSHIRE TRUCKING, INC., a
corporation.

Case No. 8654

Marshall A. Smith, Jr., for respondent.
John C. Gilman, Counsel, and J. B. Hannigan,
for the Commission staff.

O P I N I O N

By its order dated July 11, 1967, the Commission instituted an investigation into the operations, rates, charges and practices of Shropshire Trucking, Inc., a corporation, hereinafter referred to as respondent.

A public hearing was held before Examiner Fraser on August 29, 1967 in Fresno, and the matter was submitted.

Respondent has permits to operate as a radial highway common carrier, a city carrier and a cement contract carrier. It dispatches from a single terminal in Lindsay and employs three office personnel, three in the shop, a field representative and fourteen to twenty drivers. Its operating equipment consists of nineteen tractors, twenty-seven semi-flat bed trailers, twenty-seven full-flat bed trailers, three semi-van trailers and three full van trailers. Its gross operating revenue for the four quarters ending in June of 1967 was \$341,025. Copies of the appropriate tariffs and distance tables were served on the respondent.

A representative of the Commission's Field Section visited respondent's terminal in Lindsay on February 1 and 16, 1967 and

checked all of respondent's records for the period from July 1, 1966 to December 31, 1966, inclusive. During said period the respondent transported 637 shipments. Documents covering 71 shipments were copied and introduced in evidence as Exhibit No. 1. The staff presented evidence on 67 counts wherein lime was transported. It is alleged that empty pallets were improperly returned without charge on 31 of the lime shipments. The remaining counts involve a shipment of salt (Exhibit 8); two shipments of wooden pallets (Parts 20 and 21 of Exhibit 5) and a shipment of used pallets (Exhibit 7).

The staff rate expert testified that undercharges in the amount of \$3,111.59 resulted as reflected by Exhibits 4, 5, 6, 7, 8 and 9. He further testified that he used the rate listed for "common lime", which was identified as the commodity transported.

The controller of the respondent corporation testified that he is a certified public accountant and responsible for audits, payrolls, rating, tax reports and office management. He testified the respondent hauls mostly commodities that are not subject to rate regulation. About 10 or 15 percent of the business consists of hauling items regulated under the minimum rate tariffs and all of the rated items are used in agriculture. He stated that he classified the "lime" hauled on the 67 counts listed as an agricultural product exempt from regulation. He thought it would be exempt because of the way it is used. It is a low grade lime and is not suitable for any normal use. It is used by farmers or ranchers as a cheap ground cover to increase water penetration and in cattle feed lots or barns to eliminate odors; it is also used in a spray with water and "Ortho Instant Bluestone" (Exhibit 10) to cover citrus groves and neutralize the burning effect of insecticides and nutritional chemicals (Exhibits 11, 12). The shipper has classified

the product as "hydrated lime", used only for agricultural purposes (Exhibit 12), and the manufacturer describes it as 90% calcium hydroxide and 10% inert ingredients (Exhibit 10). ✓

Informal Ruling No. 167 is filed herein as Exhibit 15. It provides that lime refuse or urea used as an agricultural liming material or fertilizer supplement is exempt from the rates in Minimum Rate Tariff No. 2.

Respondent's witness testified that his rating on the lime seems justified in view of the information received from the manufacturer, the shipper and the Commission itself. He further testified that farmers use the lime because it costs only \$25.00 a ton. If there are undercharges to be paid and increased transportation charges it may price the lime beyond the consumers' ability to pay. He stated he has been employed for only a year, but the respondent has been checked annually by a Commission representative during the fifteen years it has hauled lime without further Commission action. The rates charged by respondent are the same as the rates charged by other carriers. The witness acknowledged that the undercharges on the transportation of new pallets (Parts 20, 21 of Exhibit 5), used pallets (single count in Exhibit 7), and salt (only part in Exhibit 8) were due to inadvertence. The witness stated that the undercharges

on the three shipments of pallets have already been collected. The charges for the single haul of salt remain to be collected. ✓

Discussion

The lime transported by the respondent is described in Item 560 (lime refuse) of Exception Ratings Tariff No. 1 and the lime so described and the empty pallets returned on the lime transportation are exempt from minimum rate regulation under Item 40 of Minimum Rate Tariff No. 2. Undercharges on the four remaining counts total \$82.59 and do not justify the imposition of a fine.

The Commission finds that:

1. Respondent operates pursuant to radial highway common carrier, city carrier and cement contract carrier permits.
2. Respondent was served with the appropriate tariffs and distance tables.
3. Low grade lime used only for agriculture as described in Informal Ruling No. 167 and the empty pallets returning from an outbound paying load are exempted from minimum rate regulation.

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4. Respondent charged less than the lawfully prescribed minimum rate in the instances as set forth in Parts 20 and 21 of Exhibit 5 and Exhibits 7 and 8.

5. No fine should be imposed.

The Commission expects that respondent will proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharges.

O R D E R

IT IS ORDERED that:

1. 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.

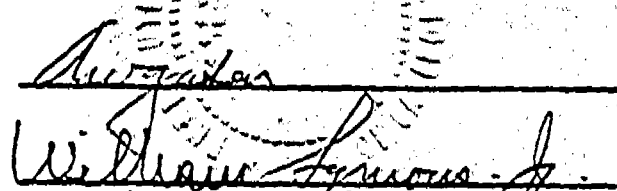
2. Respondent shall cease and desist from charging and collecting compensation for the transportation of property or for any service in connection therewith in a lesser amount than the minimum rates and charges prescribed by this Commission.

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.

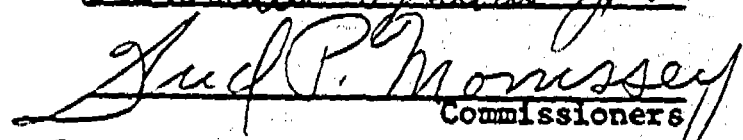
Dated at San Francisco, California, this 27th day of DECEMBER, 1967.



President



Commissioner



Commissioner

-5- Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.