

Decision No. 73960**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of J. I. M.
CORPORATION.

Case No. 8713
(Filed October 24, 1967)

Donald Murchison, for respondent.
Elinore C. Morgan, Counsel, and E. H. Hjelt,
for the Commission staff.

O P I N I O N

By its order dated October 24, 1967, the Commission instituted an investigation into the operations, rates and practices of J. I. M. Corporation.

A public hearing was held before Examiner O'Leary at Los Angeles on February 27, 1968 on which date the matter was submitted.

Respondent conducts operations pursuant to Radial Highway Common Carrier Permit No. 19-57571. Respondent's terminal is located at El Monte. It operates 11 tractors and 13 sets of trailers and employs 18 persons. Its gross operating revenue for the four quarters ending September 30, 1967 was \$498,542. Copies of the appropriate tariff and distance table were served on respondent.

A transportation representative testified that he reviewed respondent's records for the period August 1, 1966 through October 31, 1966. During said period respondent transported approximately 500 shipments. The underlying documents relating to 24 shipments were taken from respondent's files, and photocopied. The photocopies of

the documents were received in evidence as Exhibit 1. It was stipulated that the rate studies which comprise Exhibits 3, 4 and 5 reflect the correct minimum rates and charges applicable to the 24 shipments in question. The exhibits disclose undercharges as follows:

<u>EXHIBIT</u>	<u>UNDERCHARGE</u>
3	\$ 92.75
4	842.38
5	1,182.09

The respondent presented evidence (Exhibits 6 and 7) that the undercharges had been billed and that the undercharges set forth in Exhibits 4 and 5 had been collected. The undercharge of \$92.75 set forth in Exhibit 3 is due from Brooks Dodge Lumber Company. Counsel for respondent alleges that said amount is uncollectable. Counsel further alleges that there are suits presently pending against Brooks Dodge Lumber Company for undercharges in excess of \$200,000 as a result of a previous Commission investigation. A review of the case referred to by Counsel (Case No. 7816) discloses that as a result of the order contained in Decision No. 68295 seven respondents have filed suit against Brooks Dodge Lumber Company for undercharges in the amount of \$149,527.82. There is no evidence in Case No. 7816 or in the instant proceeding to indicate that the undercharges are uncollectable and therefore the order which follows will require respondent to collect the undercharge of \$92.75.

After consideration the Commission finds that:

1. Respondent operates pursuant to Radial Highway Common Carrier Permit No. 19-57571.
2. Respondent was served with the appropriate tariff and distance table.

3. Respondent charged less than the lawfully prescribed minimum rate for the transportation covered by Exhibits 3, 4 and 5 resulting in undercharges of \$2,117.22.

4. Respondent has billed for the undercharges set forth in Exhibits 3, 4 and 5 and has collected the undercharges set forth in Exhibits 4 and 5.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Sections 3664 and 3737 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$2,117.22, and in addition thereto respondent should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$250.

The Commission expects that respondent will proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharge not heretofore collected. 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 respondent or his attorney has not been diligent, or has not taken all reasonable measures to collect the undercharge, 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 \$2,367.22 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 \$92.75 undercharge set forth in Exhibit 3 and shall notify the Commission in writing upon the consummation of said collection.

3. Respondent shall proceed promptly, diligently and in good faith to pursue all reasonable measures to collect the undercharge, and in the event the undercharge ordered to be collected by paragraph 2 of this order remains 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 specifying the action taken to collect said undercharge and the result of such action, until said undercharge has 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 the 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 9th day of APRIL, 1968.

Edward E. McNeill
President

William W. Bland

Augustin

William Lynum, Jr.

Paul P. Monsey
Commissioners