

ORIGINAL

Decision No. 74235

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 MINGLE TRANSPORTATION WAREHOUSE, a corporation, doing business as Mingle Transportation, Mingle Transportation Warehouse, and Starr Transfer Company.

Case No. 8755

Margaret Mingle, for respondent.  
Donald M. Grant, Counsel, and  
E. E. Cahoon, for the Commission staff.

O P I N I O N

By its order dated January 23, 1968, the Commission instituted an investigation into the operations, rates and practices of Mingle Transportation Warehouse, a corporation, doing business as Mingle Transportation, Mingle Transportation Warehouse and Starr Transfer Company, hereinafter referred to as respondent.

A public hearing was held before Examiner Porter on February 27, 1968 at Fresno, at which time the matter was submitted.

Respondent engages three drivers and one bookkeeper and maintains a terminal at 100 M Street, Fresno. Its equipment consists of five tractors, three trucks and eleven trailers. Its revenue for 1966 was \$59,044, and for the first three quarters of 1967, \$28,748.

Respondent presently conducts operations pursuant to radial highway common carrier, highway contract carrier, city carrier, household goods carrier and cement contract carrier permits. A copy of appropriate tariffs and distance tables were served upon respondent.

A representative of the Commission's Field Section visited respondent's place of business and checked all the respondent's records for the periods February 1, 1966 through July 31, 1966, and January 1, 1967 through June 21, 1967.

The field representative testified that the purpose of his investigation was to ascertain whether respondent had complied with an undercharge letter issued to the respondent January 5, 1967. This investigation revealed that respondent had not complied with the undercharge letter. Further evidence was discovered disclosing rate violations. Documents covering 31 shipments were copied and introduced as Exhibit No. 1.

The staff rate expert testified that undercharges in the amount of \$1,574.56 resulted as reflected by Exhibit No. 3. These undercharges arise, in the main, from failure to assess correct loading and/or unloading charges as required by Items 240 and 241 of Minimum Rate Tariff No. 2, illegal consolidation of shipments (Item 60 of Minimum Rate Tariff No. 2) and failure to apply off-rail charges. Furthermore, freight charges were divided among several consignee stores contrary to the provisions of Item 255 of Minimum Rate Tariff No. 2.

The respondent through Mrs. Mingle, president of the corporation, testified that it obtained rates from competitors and a traffic consultant.

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 Tables Nos. 4 and 5.

3. Respondent failed to assess correct loading and/or unloading charges as required by Items 240 and 241 of Minimum Rate Tariff No. 2, illegal consolidation of shipments (Item 60 of Minimum Rate Tariff No. 2) and failed to apply off-rail charges.

4. Respondent charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibit No. 3 which resulted in undercharges in the amount of \$1,574.56.

5. Respondent apportioned freight charges in violation of Item 255 of Minimum Rate Tariff No. 2.

The Commission concludes that respondent violated Sections 3664, 3667 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 \$1,574.56 (the amount of the undercharges shown in Exhibit No. 3) and in addition respondent should pay a fine pursuant to Section 3774 of the Public Utilities Code in the amount of \$500.

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 respondent or its attorney has not been diligent, 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 \$2,074.56 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 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, including the apportionment of freight charges, 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 Los Angeles, California, this 11<sup>th</sup> day of JUNE, 1968.

[Signature]  
President

[Signature]  
William [Signature]  
[Signature]  
Commissioners

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