

ORIGINAL

Decision No. 75362

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations)
and practices of MILES & SONS)
TRUCKING SERVICE, a corporation. }

Case No. 8619
(Filed April 4, 1967)

Bruce R. Geernaert, for respondent.
Timothy E. Treacy, Counsel, for the Commission
staff.

O P I N I O N

This is an investigation on the Commission's own motion to determine whether Miles & Sons Trucking Service (hereinafter referred to as Miles) violated Section 3669 of the Public Utilities Code by obtaining or seeking to obtain transportation of property by means of false billing, false or incorrect classification, false report or any other device or means.

This matter was held in abeyance pending the disposition of related proceedings. A duly noticed public hearing was held before Examiner Jarvis on December 10, 1968 and the matter was submitted on December 30, 1968.

The parties stipulated to certain facts and that the Commission could take official notice of Decisions Nos. 73475, 73476, 73477 and 74603 previously entered. Miles also stipulated that a fine could be imposed against it herein. In the light of the stipulation and record herein the Commission makes the following findings and conclusions:

Findings of Fact

1. Miles is a highway common carrier, radial highway common carrier, highway contract carrier, petroleum irregular route carrier and cement carrier subject to the jurisdiction of the Commission.

2. The construction division of Miles and Kenneth H. Golden Company, as a joint venture, was the general contractor for the construction of a portion of Interstate Highway No. 8 in or near the City of El Centro, Imperial County, California, between March and August 1966. The construction division was operated under the supervision of Harold Buttles and the construction job was conducted by the construction division under the direct supervision of Harold Buttles and others reporting directly to him.

3. In the course of completing the aforesaid construction job, the construction division employed numerous trucks as described in Items 300, 365 and 366 of Minimum Rate Tariff No. 7 and supplements thereto on an hourly basis. The trucking equipment available to the construction division for the said job was to a large extent old and not capable of operating continuously in the transportation of earth fill. The number of trucks and the geographical scope of the job was such that it was impractical to attempt to supervise all drivers insofar as the actual time spent on the job in any given shift.

4. The supervisory personnel at the job site utilized a "guideline" which was developed by test runs and by the experience of some of the trucks working on the job site. The practice which evolved on the job site was that when a driver turned in time which exceeded the time the guideline indicated he should have spent on the job in relation to the number of loads he hauled during the shift, the construction division supervisory personnel would reject

the time reported. This procedure resulted in the altering of time reported in conformity with the guidelines in some instances and in some instances resulted in payment for less hours than the time reported by the drivers.

5. Miles has, since completing the aforesaid job, disbanded the construction division. The supervising employees responsible for the construction division and the subject job are no longer employed by Miles.

6. Miles obtained transportation of property by means of a device with the consent of the other highway permit carriers involved, for compensation which was effectively less than the hourly minimum rates prescribed in Items 300, 365 and 366 of Minimum Rate Tariff No. 7.

Conclusions of Law

1. Miles violated Section 3669 of the Public Utilities Code by obtaining transportation at less than the hourly minimum rates prescribed in Items 300, 365 and 366 of Minimum Rate Tariff No. 7.

2. Miles should be fined the sum of \$5,000 pursuant to Section 3774 of the Public Utilities Code.

ORDER

IT IS ORDERED that Miles & Sons Trucking Service, a corporation, shall pay a fine of \$5,000 to this Commission on or before the fortieth day after the effective date of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of FEBRUARY, 1969.

William Symons, Jr.
President

Alexander

Richard M. ...

W. F. ...

James ...
Commissioners