

Decision No. 76632

ORIGINAL

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 Roy F. Querio, doing business as Royal Trucking Co.; Gordon H. Ball, Inc., a corporation; O. C. Jones & Son; Antioch Paving Co. and Martin Bros., Inc., a corporation.

Case No. 8841

ORDER DENYING PETITION FOR REHEARING  
AND MODIFYING DECISION

In Decision No. 76283 dated October 21, 1969 in Case No. 8841, respondent was found to have undercharged certain shippers in violation of Minimum Rate Tariff No. 7 and to have failed to comply with the documentation rules of MRT No. 7. Consequently, petitioner was held to have violated Sections 3664, 3667 and 3737 of the Public Utilities Code. Petitioner was ordered to calculate all undercharges according to the method announced in Decision No. 76283 and to collect such amounts from the respective shippers and to repay ninety-five percent of such amounts to the respective subhauliers. Petitioner also was fined \$2,000 for the violations.

A question arose in Case No. 8841 concerning the determination of the exact point within a commercial producing plant from which mileages should be calculated in order to compute distance rates set forth in MRT No. 7. Accordingly, Order Setting Hearing 192 in Case No. 5437 was filed on November 12, 1969 for the purpose of receiving evidence concerning adjustments, if any, that may be appropriate to the minimum rate tariff.

Petitioner subsequently filed for a rehearing of Case No. 8841.

Case No. 5437 indicates that at present MRT No. 7 may be capable of more than one interpretation of the method for measuring mileages from a commercial producing plant for distance rate

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purposes. Since the outcome of Case No. 5437 might affect the method for calculating undercharges found in Case No. 8841, Decision No. 76283 should be modified to the extent that it orders undercharges to be calculated and collected from shippers and repaid to subhaulers.

Testimony and petitioner's brief on final argument in Case No. 8841 admit that undercharges, even on petitioner's basis for measuring distances, and failure of adequate documentation, did occur. Therefore, the fine ordered in Decision No. 76283 is appropriate and should be affirmed.

Good cause appearing, IT IS ORDERED that petitioner's petition for rehearing is denied and that Decision No. 76283 is modified as follows:

- 1) That portion which orders petitioner to calculate all undercharges and to recover these amounts from shippers and repay ninety-five percent of such amounts to subhaulers, is hereby rescinded.
- 2) That portion which orders petitioner to pay a fine of \$2,000 is affirmed.

The effective date of this order shall be twenty days after service of this order on petitioner.

Dated at San Francisco, California, this 30th day of DECEMBER, 1949.

William Ferguson Jr.  
President  
[Signature]  
[Signature]  
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Commissioners

Commissioner A. W. Catov, being necessarily absent, did not participate in the disposition of this proceeding.