

ORIGINAL

Decision No. 76766

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
EDWARD A. DAUGHN, an individual
doing business as MORNING-AFTERNOON
DELIVERY.

Case No. 8984

Edward A. Daughn, for Morning-Afternoon
Delivery, respondent.

W. J. McNertney, Counsel, and George T.
Kataoka, for the Commission staff.

O P I N I O N

By its order dated October 21, 1969, the Commission instituted an investigation into the operations, rates, charges and practices of Edward A. Daughn, an individual doing business as Morning-Afternoon Delivery.

Public hearing was held before Examiner Porter on November 25, 1969 at San Francisco. It was stipulated that respondent had a highway contract carrier permit and has been served with the applicable tariffs.

The staff presented evidence that the carrier had failed to collect payments on 275 shipments from 50 shippers within the time periods prescribed in Item No. 250-A of Minimum Rate Tariff No. 2 and Item 120 of Minimum Rate Tariff 19 and that although most of the collections were in arrears nine to thirty-two days beyond the credit rule period, freight charges in 40 shipments have remained outstanding for a long period of time, some going back to May, 1967.

Respondent testified as to his efforts to collect the transportation charges; one shipper testified that it was physically

impossible to process bills presented by the carrier, within the prescribed time limit for payment; the other shipper testified that he was not aware that transportation charges had to be paid within a certain period. The respondent has subscribed to a service as an aid in his attempt to collect the charges within the prescribed time.

Tariff rules adopted by this Commission are for the protection of the shipping public and carriers. If rules are difficult or impossible to comply with, appropriate action should be taken before the Commission for permission to deviate from the rules; the rules should not simply be ignored.

The Commission finds that:

1. Respondent operates pursuant to highway contract carrier permit.
2. Respondent was served with appropriate tariffs.
3. Respondent failed to collect payments from shippers within the time periods prescribed in Item 250-A of Minimum Rate Tariff No. 2 and Item 120 of Minimum Rate Tariff 19.

Based upon the foregoing findings of fact, the Commission concludes that Edward A. Daughn violated Section 3737 of the Public Utilities Code and should pay a fine in the sum of \$250.

O R D E R

IT IS ORDERED that:

1. Respondent shall examine his records and proceed diligently to pursue all reasonable measures to collect all transportation charges which have not been collected within the time period prescribed in Item 250-A of Minimum Rate Tariff No. 2 and Item 120 of Minimum Rate Tariff 19.

2. Within ninety days after the effective date of this order, respondent shall complete the examination of records required by paragraph 1 of this order and shall file with the Commission a report setting forth all transportation charges not collected pursuant to that examination.

3. Respondent shall take such action, including legal action, as may be necessary to collect the transportation charges found after the examination required by paragraph 1 of this order, and shall notify the Commission, in writing, upon the consummation of such collections.

4. Respondent shall pay a fine of \$250 to this Commission on or before the twentieth day after the effective date of this order.

5. Respondent shall cease and desist from granting shippers credit beyond the time period provided in the minimum rate tariffs promulgated by this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Edward A. Daughn. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this
11th day of FEBRUARY, 1970.

William J. Agnew, Jr.
President
James H. ...
J. P. ...
...
...
Commissioners