

ORIGINAL

Decision No. 76828

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)
A. V. Schmelle Equipment, Inc.)

Case No. 8982

Grossman & Barr, by Bernard M. Avidan, for
respondent.
William J. McNertney, Counsel, and J. B. Hannigan,
for the Commission staff.

O P I N I O N

By its order dated October 15, 1969, the Commission instituted an investigation into rates, charges and practices of A. V. Schmelle Equipment, Inc.

Public hearing was held before Examiner Porter on December 17, 1969 at Long Beach.

It was stipulated that respondent had a highway contract carrier permit and has been served with the applicable tariff.

The staff presented evidence that the carrier had failed to collect payments from shippers within the time period prescribed in Item 45 of Minimum Rate Tariff No. 7.

Respondent testified as to its efforts to collect the transportation charges. Respondent has engaged an attorney and collection agency in an effort to collect payments.

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 be ignored.

The Commission finds that:

1. Respondent operates pursuant to highway contract carrier permit.
2. Respondent was served with appropriate tariff.
3. Respondent failed to collect payments from shippers within the time periods prescribed in Item 45 of Minimum Rate Tariff No. 7.

Based upon the foregoing findings of fact, the Commission concludes that respondent violated Section 3737 of the Public Utilities Code and a fine of \$250 should be paid.

O R D E R

IT IS ORDERED that:

1. Respondent shall pay a fine of \$250 to this Commission on or before the fortieth day after the effective date of this order.
2. Respondent shall cease and desist from extending credit to any shipper beyond the time limit prescribed in minimum rate tariffs.
3. Respondent shall examine its 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 45 of Minimum Rate Tariff No. 7.
4. Within ninety days after the effective date of this order, respondent shall complete the examination of records required by paragraph 3 of this order and shall file with the Commission a report setting forth all transportation charges not collected pursuant to that examination.

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

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 on such respondent.

Dated at San Francisco, California, this 20th day of FEBRUARY, 1970.

William J. Lyons, Jr.
President

Samuel L. Sturgeon
Commissioners

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

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.