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ORIGINAL

Decision No. _____

78374

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of Weber Truck
and Warehouse, a California
corporation; Cederquist Showcase;
Coast Showcase Co.; Corvin Cabinet
Co.; Siniscope & Sons; Thrifty
Drug Stores Co., Inc.; and Empire
Bag Co.

Case No. 9111
(Filed September 1, 1970)

Nicholas N. Weber, for Weber Truck and
Warehouse, and Bernard Stillman, for
Thrifty Drug Stores Co., Inc., respondents.
James Quintrall, for Los Angeles Warehousemen's
Assn., interested party.
Elmer Sjostrom, Attorney at Law, and J. Asman,
for the Commission staff.

O P I N I O N

This is an investigation on the Commission's own motion into the rates, operations and practices of Weber Truck and Warehouse, a California corporation (Weber), for the purpose of determining whether said respondent violated Sections 3667 and 3737 of the Public Utilities Code by charging and collecting less than the applicable minimum rates in connection with for-hire transportation performed for the respondent shippers named in the above caption.

Public hearing was held before Examiner Mooney in Los Angeles on January 6, 1971, on which date the matter was submitted.

Weber operates pursuant to radial highway common carrier and highway contract carrier permits. It has a terminal in Vernon. During the staff investigation referred to hereinafter, it employed 14 drivers and 8 office and other personnel; it operated 9 tractors,

19 trailers, 8 trucks and 2 converter dollies; and it had been served with all applicable tariffs and distance tables, together with all supplements and additions to each. Weber's gross operating revenue for the year ending September 30, 1970 was \$375,535.

During February 1970, a representative of the Commission staff visited Weber's place of business and examined its records for the period September through November 1969. He testified that he made true and correct photostatic copies of certain freight bills and supporting documents; that any information not clearly shown on the documents was furnished to him by the respondent carrier; that Weber had failed to bill Thrifty Drug Stores for five separate loads within the time period specified in the Credit Rule in Item 220 of Minimum Rate Tariff 11-A; and that Weber had informed him the late billing occurred during a period the office staff was being reorganized.

A rate expert for the Commission staff testified that he took the photocopies of documents prepared by the representative and formulated the rate statements in Exhibits 1 and 2 which show the rate and charge assessed by Weber, the rate and charge computed by the staff and the amount of undercharge alleged by the staff for transportation performed for Cederquist Showcase and Empire Bag Co., respectively. The rate expert testified the rate errors shown in the exhibits resulted from incorrect application of the split pickup and delivery rules and from failure to comply with the unit of measurement rule in Minimum Rate Tariff 11-A. The amount of the undercharges shown in Exhibit 1 is \$168.95 and in Exhibit 2 is \$355.78, and the total of the undercharges shown in both exhibits is \$524.73.

The staff did not allege any violations by Weber in connection with transportation performed for the other respondent shippers. Weber was placed on official notice by the staff for alleged documentation and other violations at an advisory conference with said respondent held on November 30, 1967.

The president of Weber stated in closing that the rate violations and late billing pointed out by the staff were inadvertent errors and that steps have been taken to assure that they do not reoccur in the future.

Based on a review of the evidence, we are of the opinion that Weber should be directed to collect the undercharges found herein and that a fine in the amount of said undercharges should be imposed on said respondent.

The Commission finds that:

1. Weber operates pursuant to radial highway common carrier and highway contract carrier permits.
2. Weber was served with all applicable minimum rate tariffs and distance tables, together with all supplements and additions to each.
3. The rates and charges computed by the staff in Exhibits 1 (Cederquist) and 2 (Empire Bag) are correct.
4. Weber charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibits 1 (Cederquist) and 2 (Empire Bag) resulting in undercharges in the amount of \$168.95 and \$355.78, respectively. The total amount of the undercharges in both exhibits is \$524.73.
5. Weber failed to bill Thrifty Drug Stores for five separate loads within the applicable credit period.

The Commission expects that Weber 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 said respondent and the results thereof. If there is reason to believe that either said respondent or its attorney has not been diligent, or 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. Weber Truck and Warehouse, a California corporation, shall pay a fine of \$524.73 to this Commission on or before the fortieth day after the effective date of this order.

2. Said respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, and shall notify the Commission in writing upon the consummation of such collections.

3. Said 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, said 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, specifying the action taken to collect such undercharges and the result of such action, until

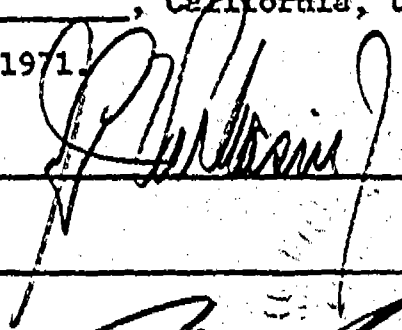
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such undercharges have been collected in full or until further order of the Commission.

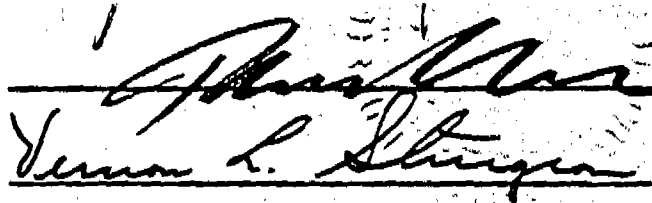
4. Said respondent shall cease and desist from violating applicable tariff rules and from charging and collecting compensation for the transportation of property or for any service in connection therewith in a lesser amount than the minimum rates and charges prescribed by this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Weber Truck and Warehouse. The effective date of this order, as to this respondent, shall be twenty days after completion of personal service. The Secretary is further directed to cause service by mail of this order to be made upon all other respondents. The effective date of this order, as to these respondents, shall be twenty days after completion of service by mail.


Dated at San Francisco, California, this 2nd
day of MARCH, 1971.



Chairman



Vernon L. Sturgeon



Commissioners

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