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ORIGINAL

Decision No. 78662

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of TRANS-UNITED, INC., a corporation, doing business as TRANS-UNITED EXPRESS; CUSTOMER PICKUP, INC., doing business as CUSTOMER WAREHOUSE CO.; LANDER CO., INC., a corporation; and WILLIAM BRADY, an individual, doing business as AMERICAN FACTORS.

Case No. 9144

Hill, Farrer & Burrill, by William S. Scully, Jr. and Joel H. Jubelier, Attorneys at Law, for Trans-United, Inc. and William Brady, respondents.

William E. Miller, for Lander Co., Inc. interested party.

William D. Figg-Hoblyn, Attorney at Law, and E. H. Hjelt, for the Commission staff.

O P I N I O N

By its order dated November 4, 1970 the Commission instituted an investigation into the operations, rates, and practices of said respondents.

Public hearing was held before Examiner Porter on December 16, 1970 at Los Angeles.

It was stipulated by the staff and attorneys for respondents that respondents had been served with applicable Commission tariffs and that the evidence introduced at the hearing was correct. It was determined there were undercharges totaling \$9,061.05 on transportation performed by Trans-United, Inc. for two shippers, Customer Warehouse Co. and Lander Co., Inc.

The violations primarily consisted of: (1) consolidation of separate shipments by the carrier for monthly periods; (2) use of Los Angeles drayage area rates on shipments destined to points not within the drayage area and subject to rates in MRT-2; and (3) a factoring refund. Carrier has highway contract carrier and radial highway common carrier permits; employs 7 people and operates 4 trucks, 2 tractors and 3 semitrailers. Carrier earned \$72,089 for the period July 1, 1969 to June 30, 1970.

The Commission finds that:

1. Trans-United, Inc., doing business as Trans-United Express, operates pursuant to highway contract and radial highway common carrier permits.
2. Carrier was served with applicable tariffs.
3. Carrier charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibits Nos. 2 and 4 in the amount of \$9,061.05.

The Commission concludes that the carrier violated Sections 3664, 3737, 3667, 3668 and 3669 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$9,061.05 (the amount of the undercharges shown in Exhibits Nos. 2 and 4).

The Commission expects that respondent Trans-United, Inc. 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 respondent and the results thereof. If there is reason to believe that either 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. Respondent Trans-United, Inc. shall pay a fine of \$9,061.05 to this Commission on or before the fortieth day after the effective date of this order.

2. Respondent Trans-United, Inc. shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein (Exhibits Nos. 2 and 4) and shall notify the Commission in writing upon the consummation of such collections.

3. Respondent Trans-United, Inc. 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, 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 such undercharges have been collected in full or until further order of the Commission.

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4. Respondent Trans-United, Inc. shall cease and desist 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 the Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Trans-United, Inc. The effective date of this order shall be twenty days after the completion of such service. The Secretary is further directed to cause service by mail of this order to be made upon all other respondents.

Dated at San Francisco, California, this 11th day of MAY, 1971

[Signature]
Chairman
[Signature]
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Commissioners