

Decision No. 81652

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 CLOVER  
TRUCKING COMPANY, INC., a California  
corporation, BONNIE SALES COMPANY  
and FAR WEST FIR SALES COMPANY.

Case No. 9536  
(Filed April 10, 1973)

Jack C. Hamson, Attorney at Law, for  
Clover Trucking Company, Inc.,  
respondent.  
Rufus G. Thayer, Jr., Attorney at  
Law, and E. H. Hjelt, for the  
Commission staff.

O P I N I O N

This is an investigation on the Commission's own motion into the operations, rates, charges, and practices of Clover Trucking Company, Inc. (Clover), for the purpose of determining whether it charged less than minimum rates in connection with transportation performed for Tidewater Industries, Inc., doing business as Bonnie Sales (Bonnie), and Far West Fir Sales Company, a corporation (Far West).

Public hearing was held before Examiner Mooney in Ukiah on June 19, 1973 on which date the matter was submitted.

Findings

The following undisputed facts are established by the evidence, and we find them to be such:

1. Clover operates pursuant to a radial highway common carrier permit.
2. In August and October 1972, the Commission staff conducted an investigation of Clover's operations and reviewed its records

for the period October 1, 1971 through March 31, 1972. The investigation disclosed various rate errors in connection with the transportation of lumber for the two shipper respondents.

3. At the time of the staff investigation, Clover had a terminal in Hopland, operated six trucks and trailers, employed six drivers and one office and one shop personnel, and had all applicable tariffs and distance tables. Its gross operating revenues for the year 1972 was \$317,569.

4. The rate errors referred to in Finding 1 in connection with the transportation performed for Bonnie and Far West are summarized in the staff's Exhibits 5 and 6, as amended, respectively. The rate errors resulted from Clover's use of incorrect rail rates, failure to assess applicable off-rail and stop-in-transit charges, improper documentation and consolidation of multiple and split shipments, and failure to assess applicable surcharges.

5. The minimum rates and charges computed by the staff in Exhibits 5 and 6, as amended, are correct.

6. Clover charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibits 5 (Bonnie) and 6 (Far West), as amended, in the amounts of \$45.60 and \$3,649.91, respectively. The total of the undercharges in both exhibits is \$3,695.51.

7. During the period covered by the staff investigation, the current president of Clover and his deceased wife owned all of the carrier's stock. She was the president and was responsible for supervising all office work, including the billing of transportation charges. However, due to illness which commenced prior to this time, she was forced to curtail her duties and eventually turn them over completely to an inexperienced employee. The husband held no office and took no active part in the management of Clover at this time. A lumber company in which he was a partner had required all of his attention. It was not until March 18, 1973, after the wife's death, that the husband became president and actively engaged in the management of Clover.

8. This is the first time Clover has been involved in a formal investigation.

Conclusions

1. Clover violated Sections 3664 and 3737 of the Public Utilities Code.

2. Clover should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$3,695.51.

3. Clover should be directed to cease and desist from violating the rates and rules of the Commission.

The Commission expects that Clover 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 such measures. If there is reason to believe that Clover 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 determining whether further sanctions should be imposed.

O R D E R

IT IS ORDERED that:

1. Clover Trucking Company, Inc. shall pay a fine to this Commission pursuant to Public Utilities Code Section 3800 of

\$3,695.51 on or before the fortieth day after the effective date of this order.

2. Clover Trucking Company, Inc. shall take such action, including legal action, as may be necessary to collect the undercharges set forth in Finding 6, and shall notify the Commission in writing upon collection.

3. Clover Trucking Company, Inc. shall proceed promptly, diligently, and in good faith to pursue all reasonable measures to collect the undercharges. In the event the undercharges ordered to be collected by paragraph 3 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 the 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.

4. Clover Trucking Company, 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 this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent Clover

Trucking Company, Inc. and to cause service by mail of this order to be made upon all other respondents. The effective date of this order as to each respondent shall be twenty days after completion of service on that respondent.

Dated at San Francisco, California, this 31<sup>st</sup> day of JULY, 1973.

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

Commissioner Vernon L. Sturgeon, 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.