

ORIGINALDecision No. 82108

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 ANTHONY H. OSTERKAMP, JR., an individual, dba Osterkamp Trucking; and California-Alabama Pipe Company; Davis Wire Corporation, a California corporation; South Bay Lumber Company, a California corporation; and Marquart-Wolfe Lumber Company, a California corporation.

Case No. 9576
(Filed July 3, 1973)

John K. Grissom and John P. Crawford,
Transportation and Traffic Consultants,
for Osterkamp Trucking, respondent.
Peter Arth, Jr., Attorney at Law, and
E. H. Hjelt, for the Commission staff.

O P I N I O N

Public hearing in this investigation was held before Examiner Mooney in Los Angeles on September 27, 1973, on which date the matter was submitted. All facts and issues were stipulated to by Anthony H. Osterkamp, Jr., an individual, doing business as Osterkamp Trucking (Osterkamp), and the Commission staff. There were no other appearances. The stipulations were as follows and we find them to be facts:

1. Osterkamp operates pursuant to a radial highway common carrier permit. He has a terminal in Orange, sub-terminals in Plaster City (El Centro) and San Jose, and 43 employees. He operates 22 tractors, 28 sets of double, flat rack trailers, and 2 van semitrailers. He has all applicable minimum rate tariffs and distance tables. His gross operating revenue for the year ending June 30, 1973 was \$1,855,896.

2. The Commission staff reviewed Osterkamp's records for the period January through August 1972. The review disclosed undercharges in connection with the transportation of lumber, cast iron soil pipe, wire fencing, wire mesh, iron or steel ties, and iron or steel wire for the four respondent shippers.

3. The rate errors referred to in Finding 2 are summarized in the staff's Exhibits 3 through 6, one for each shipper respondent. They resulted from the following violations of Minimum Rate Tariff 2: failure to assess rerate charges, failure to properly document split delivery and multiple lot shipments, failure to assess off-rail charges, the incorrect assessment of alternative common carrier rates, and failure to properly bill and collect charges. In addition, Osterkamp transported property to points other than those shown on shipping documents.

4. The minimum rates and charges computed by the staff in Exhibits 3 through 6 are correct.

5. Osterkamp charged less than the lawfully prescribed minimum rates in the instances set forth in the exhibits and in the amounts shown below:

<u>Exhibit No.</u>	<u>Shipper</u>	<u>Amount of Undercharge</u>
3	South Bay Redwood Co.	\$1,203.70
4	California-Alabama Pipe Co.	445.54
5	Davis Wire Corp.	878.27
6	Marquart-Wolfe Lumber Co.	406.78
	Total for 4 exhibits	\$2,934.29

The Commission concludes that:

1. Osterkamp violated Sections 3664, 3668, and 3737 of the Public Utilities Code.

2. Osterkamp should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$2,934.29 and, in addition thereto, should pay a fine pursuant to Section 3774 in the amount of \$1,500.

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

The Commission expects that Osterkamp 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 Osterkamp or his 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. Anthony H. Osterkamp, Jr., an individual, doing business as Osterkamp Trucking (Osterkamp), shall pay a fine of \$1,500 to this Commission pursuant to Public Utilities Code Section 3774 on or before the fortieth day after the effective date of this order. Osterkamp shall pay interest at the rate of seven percent per annum on the fine; such interest is to commence upon the day the payment of the fine is delinquent.

2. Osterkamp shall pay a fine to this Commission pursuant to Public Utilities Code Section 3800 of \$2,934.29 on or before the fortieth day after the effective date of this order.

3. Osterkamp shall take such action, including legal action, as may be necessary to collect the undercharges set forth in Finding 5, and shall notify the Commission in writing upon collection.

4. Osterkamp 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.

5. Osterkamp 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 Osterkamp 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 13th day of NOVEMBER, 1973.

Vernon L. Stanger
President
William J. Brown
W. J. Brown
Marshall
W. J. Brown
Commissioners