

Decision No. 82637**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 ABLE TRANSPORTATION, INC., a California corporation; BURTON TRUCK & TRANSFER CO., a California corporation; ANCHOR POST PRODUCTS, INC., OF CALIFORNIA, a California corporation; CENTRAL INDUSTRIAL ENGINEERING CO., a California corporation; and GARY STEEL COMPANY, a Delaware corporation.

Case No. 9620
(Filed October 10, 1973)

Russell & Schureman, by R. Y. Schureman,
Attorney at Law, for Able Transportation, Inc. and Burton Truck & Transfer Co., respondents.
James T. Quinn, Attorney at Law, 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 Able Transportation, Inc. (Able) and Burton Truck & Transfer Co. (Burton) to determine whether they have violated Public Utilities Code (Code) Sections 3575, 3664, 3667, 3668, and 3737 by transporting property for Anchor Post Products, Inc., Central Industrial Engineering Co., and Gary Steel Company at less than the established minimum rates, and to determine whether their use of subhaulers was in contravention of General Order No. 102-D.

After duly published notice, a public hearing was held in Los Angeles on February 7, 1974 before Examiner Bernard A. Peeters and submitted on said date.

At the hearing, the staff presented a "Stipulation of Facts, Issues, and Recommended Fines" entered into with respondent

carriers and the Commission staff. The stipulation and four appendices were received as Exhibit No. 1.

Exhibit No. 1 shows that: Able possesses radial highway common carrier and highway contract carrier permits issued by this Commission; Burton possesses radial highway common carrier, highway contract carrier permits, and a highway common carrier certificate issued by this Commission; both carrier respondents have a common terminal at Santa Fe Springs, 12 drivers, 3 mechanics, and 5 office personnel; Able has 5 tractors and 25 trailers; Burton has 10 tractors and 25 trailers; that both carrier respondents were served with all applicable minimum rate tariffs, and that Able's 1972 gross operating revenues amounted to \$317,384.53 and Burton's amounted to \$213,313.51.

The respondent carriers admit violations of the Public Utilities Code and General Order No. 102-D as alleged in issues 1. through 14 of the Order Instituting Investigation, and that undercharges in the amount of \$6,977.17, as determined by the staff, are correct and have been collected from the respondent shippers.

Respondent carriers consent to the assessment of fines as follows: Able should be assessed a fine in the total amount of the undercharges (\$6,977.17) pursuant to Section 3800 of the Code and that a punitive fine, pursuant to Section 3774 of the Code, be assessed Able in the amount of \$500 and Burton in the amount of \$500.

At the hearing the staff agreed to allow respondents 30 days' time, after the effective date of this order, in which to pay the above fines. We find that such time is reasonable and that the facts are as stated in Exhibit No. 1.

The Commission concludes that respondents have violated Sections 3575, 3664, 3667, 3668, and 3737 of the Public Utilities Code and General Order No. 102-D; that Able should pay a fine pursuant to Section 3774 in the amount of \$500, and also pay a

fine pursuant to Section 3800 of the Code in the amount of \$6,977.17; and that Burton should pay a fine of \$500 pursuant to Section 3774 of the Code.

O R D E R

IT IS ORDERED that:

1. Able Transportation, Inc. shall pay a fine of \$500 to this Commission pursuant to Public Utilities Code Section 3774 on or before the thirtieth day after the effective date of this order. Able Transportation, Inc. shall pay interest at the rate of seven percent per annum on the fine; such interest is to commence upon the day payment of the fine is delinquent.

2. Burton Truck & Transfer Co. shall pay a fine of \$500 to this Commission pursuant to Section 3774 of the Public Utilities Code on or before the thirtieth day after the effective date of this order. Burton Truck & Transfer Co. 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.

3. Able Transportation, Inc. shall pay a fine to this Commission pursuant to Public Utilities Code Section 3800 of \$6,977.17 on or before the thirtieth day after the effective date of this order.

4. Able Transportation, 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.

5. Burton Truck & Transfer Co. shall cease and desist from subhaul authority violations and from any subhaul device that would enable Able Transportation, Inc. to perform transportation of property at a lesser amount than the minimum rates and charges prescribed by this Commission.

6. Burton Truck & Transfer Co. shall cease and desist using subhaulers until it complies with General Order No. 102-D.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents Able Transportation, Inc. and Burton Truck & Transfer Co., 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 24th
day of MARCH, 1974.

James L. Sturgeon
President
William Sproule Jr.
[Signature]
[Signature]
Commissioners

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