

ORIGINAL

Decision 84 06 159

JUN 20 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
 own motion into the operations,
 rates, and practices of Lohrman
 Trucking, Inc., a California
 corporation, K-West Engineering and
 Grading, Inc., a California
 corporation, and individuals,
 partnerships, or corporations
 listed in Attachment A,
 Respondents.

OII 83-08-01
 (Filed August 3, 1983)

Russell & Hancock, by John C. Russell, Attorney
 at Law, for Lohrman Trucking, Inc.; Dixie
 Murphy, for Murphy Truck & Equipment Rentals,
 Inc.; and Eddie J. Smith, Harold L. Rodney,
Paul W. O'Brien, Clyde Allan Graves, and
Arthur L. Grande, for themselves; respondents.
James D. Martens, for California Dump Truck
 Owners Association, and James P. Foote, for
Associated Independent Owner-Operators, Inc.,
 interested parties.
Diane Fellman, Attorney at Law, and Will
 Anderline, for the Commission staff.

O P I N I O N

This Order Instituting Investigation (OII) was issued to
 determine whether Lohrman Trucking, Inc. (Lohrman) and 55 respondent
 subhaulers violated Public Utilities (PU) Code §§ 3664, 3667, 3668,
 and 3737 by failing to charge and collect applicable minimum rates
 and charges set forth in Minimum Rate Tariff (MRT) 7-A. Alleged
 violations occurred in connection with transportation performed for
 K-West Engineering and Grading, Inc. (K-West). A duly noticed public
 hearing was held before Administrative Law Judge (ALJ) John Lemke on
 January 9, 1984 in Los Angeles, and the matter was submitted on that
 date.

Staff counsel and counsel for Lohrman entered into a stipulation of facts, issues, and recommended fines (Exhibit 1). The stipulation provides, inter alia, that between April and June 1982 Lohrman transported shipments of earth for K-West at rates less than the applicable rates named in MRT 7-A; that copies of Lohrman's documents prepared by the staff relative to the transportation enumerated in the OII are true and correct; that the document entitled "Summary of Certain Shipping Data Contained in the Records of Lohrman Trucking, Inc. for transportation performed for K-West Engineering and Grading Company, Inc." constituting the staff's rate statement and reflecting total undercharges of \$6,262.97 is true and correct; and that because of Lohrman's culpability in these violations the carrier should pay a punitive fine of \$4,000, authorized under PU Code § 3774. The stipulation also provides that Lohrman will remit any underpayments to subhaulers working for it on the K-West job.

Staff recommended that each respondent subhauler pay a fine of \$250 due to participation in the alleged violations of minimum rates and for failure to adequately document freight bills as required under the provisions of MRT 7-A. Additionally, staff is recommending that four subhaulers be fined for failure to have appropriate tariffs in their possession.

Evidence

Staff

Ken Koss, an Associate Transportation Representative with the Commission's Compliance and Enforcement Branch, testified that he examined records maintained by Lohrman in connection with transportation performed for K-West during April, May, and June 1982. This transportation involved the movement of earth from Santa Monica to a location near Culver City, for which rates are provided in MRT 7-A. Koss sponsored Exhibit 2, a carrier profile of Lohrman, which is reproduced below.

Carrier Profile

Lohrman Trucking, Inc.
T-125,652

Operating Authority:

Dump Truck Carrier Permit, Highway Contract Carrier Permit and Highway Common Carrier Certificate (per Sect. 1063.5) all transferred June 25, 1979 to Lohrman Trucking, Inc. from George Lohrman, individual. Agricultural Carrier Permit, issued July 27, 1979 Heavy Specialized Carrier Permit, issued April 28, 1981

Tariff Service:

Commission records show the following Minimum Rate Tariffs were served upon the carrier pursuant to subscription: 7A, 17A, Directory 1.

Employees:

15 drivers
3 office personnel

Equipment:

9 tractors
17 sets bottom dump trailers
8 semi-end dump trailers

Bonds:

The carrier has a subhaul bond filed with the Commission.

Gross Operating Revenue:

<u>Quarter</u>	<u>Gross Revenue</u>	<u>Paid To Subhaulers</u>	<u>Earned from Subhauling</u>
2nd-82	\$ 657,493	\$ 527,552	\$ 98,902
1st-82	469,937	469,937	92,909
4th-81	1,433,671	1,181,828	106,794
3rd-81	1,199,234	926,777	69,201

Koss also sponsored Exhibit 3, which includes a copy of an hourly rate agreement executed July 1, 1981 by Lohrman and K-West. He stated that MRT 7-A provides that if such an agreement is executed, hourly rates named in MRT 7-A are applicable rather than tonnage rates. Exhibit 3 also contains copies of rateable freight bills (those which contain sufficient data to calculate correct charges) which provide the basis for determination of undercharges in this proceeding.

Koss testified that he was informed by Lohrman that billings in connection with this transportation were made at a "cycle time" of .8 hours per load regardless of actual times required to traverse the route of haul; that K-West had insisted on this method of billing. Koss stated that in January 1983 he spoke with Edwin Kalish, President of K-West. Kalish advised him that all arrangements with dump truck carriers are verbally negotiated on the basis of price per load. Koss testified that Kalish was aware that the pricing arrangement was in violation of MRT 7-A; that the billing at .8 hours per load was employed to guard against overpayments to subhaulers for time not worked and to be competitive with other shippers.

Exhibit 4 contains copies of respondent subhauler freight bills which did not contain sufficient and accurate entries necessary to properly determine applicable rates and charges, in violation of Item 170 of MRT 7-A. The provisions of Item 170 are too lengthy to reproduce here; however, paragraph 2(b) of the item requires that carriers must indicate on freight bills the precise times when motor vehicle equipment reports for work, completes last loading and discharges last load, as well as overall time, i.e., from time reporting for work to the time completing hourly service. On the first freight bill shown in Exhibit 4, No. 11430 dated April 16,

1982, the information pertaining to computation of time is shown merely as 7.5 a.m. for the reporting time, 13.7 for the ending time and a figure of 6.4 hours for total time. The bill is incomplete and could not be rated because it does not show the start driving time for the last trip, the arrival at destination on the last trip, and the end unloading time for the last trip. Koss stated that Lohrman and the subhaulers are responsible for issuing freight bills with complete information. The situation is the same for each respondent subhauler: freight bills contained in Exhibit 4 are deficient with respect to information required under Item 170 of MRT 7-A.

Koss testified that four carriers, Clyde Graves, H&D Trucking, Hawkins Bros., and Jordan Trucking, failed to obtain copies of MRT 7-A prior to the performance of transportation on the K-West job. Of the four, Clyde Graves still has operating authority, H&D Trucking and Hawkins Brothers Trucking have been revoked, and Jordan Trucking still has active authority although it is presently in voluntary suspension.

Four other carriers, Richard Bond, Albert Savoy, Richard Rodman and Rosco Watson did not possess operating authority from the Commission while being engaged as underlying carriers by Lohrman. Koss pointed out that it is Lohrman's responsibility as a prime carrier, under the provisions of General Order 102, to engage only licensed carriers in the performance of its operations.

Three other carriers who held permits when the hauling for K-West was performed have since had their permits revoked. These are Mike Guin, Robert Jacobs, and Luis Melgar.

John Araya, an Associate Transportation Rate Expert in the Commission's Compliance and Enforcement Branch prepared Exhibit 5, a calculation of the total undercharges determined in connection with the transportation performed by Lohrman for K-West. Araya noted that

Lohrman had billed on the basis of .8 hours per load so that a particular freight bill covering only one load would be charged at .8 hours times the applicable hourly rate; whereas he determined chargeable times from freight bills in accordance with the provisions of Item 360 of MRT 7-A. Total undercharges determined by Araya amount to \$6,262.97.

The staff recommended that each respondent subhauler be fined \$250 regardless of whether it violated MRT 7-A by assessing charges on the basis of cycle time, failed to maintain adequate documentation, or failed to have a copy of MRT 7-A.

Respondents

Mrs. Marie Grande testified on behalf of Arthur Grande, a respondent subhauler. She stated in connection with a freight bill covering transportation performed on May 7, 1982 that Grande had indicated total chargeable time of 8½ hours, but that Lohrman had changed that time to 7.2 hours and had paid Grande on this latter basis. The Grandes complained to Lohrman and at the same time contacted the Commission concerning this information via the Commission's "hot line." The Grandes were informed by Lohrman that K-West would not pay on the basis of more than 7.2 hours. They quit working on the K-West job after that date.

Eddie Smith of J. C. Smith & Son Trucking, a respondent subhauler, testified that he came to the Los Angeles area from northern California specifically to work on the K-West job. He stated that the times shown on freight bills were actually entered by an employee of K-West. Smith stated he complained to Lohrman about discrepancies in times, and was informed this was because he was from out of town and did not know his way around; that he was operating too slowly, and was therefore being docked. He conceded that he was guilty of not issuing completed freight bills, but stated that he had no part in the cycle time device.

Harold Rodney, another respondent subhauler, testified that he knew he was being paid on the basis of "cycle time." He conceded that he did not complete his freight bills properly. He testified that he tried to have Lohrman correct his method of payment so that he could receive pay on the basis of actual hours, but that Lohrman would not do this. Rodney also quit working on the K-West job.

In its closing statement the California Dump Truck Owners Association (CDTOA) pointed out that it has for several years emphasized to the Commission the need to impose stringent sanctions in enforcement proceedings.

The Associated Independent Owner Operators (A-100) voiced its belief that a fine of \$250 for prime carriers might be appropriate, but a fine of about half that amount might be more appropriate for a subhauler who pulls trailers belonging to another carrier because it is a captive of that overlying carrier.

Discussion

We will approve and accept the punitive fine of \$4,000 against Lohrman, as provided in the stipulation. Were it not for the fact that this is the first offense of this type reported by the staff in connection with Lohrman's operations, rates and practices, we would give serious consideration to the imposition of a larger punitive fine due to the flagrant and willful nature of the violations. If Lohrman should again be found to have engaged in this sort of unlawful activity, the full measure of fines allowable under the provisions of the PU Code will be imposed.

The respondent subhaulers, including those who attended the hearing and testified that they were in effect coerced into the violations they are charged with, are also blameworthy, though to a lesser extent than Lohrman. While they did not instigate the violations they, for the most part, went along with the practice of collecting charges on the basis of "cycle time," and they uniformly omitted from their freight bills information necessary to the correct determination of applicable rates and charges.

We have stated our concern with respect to insufficient documentation of shipments transported under rates named in our minimum rate tariffs on numerous occasions:

"The Commission, moreover, again wishes to impress upon those in the industry, who have permitted themselves to fall into a state of lethargy and indifference, that they will have to comply strictly with the statutory provisions and the Commission's rules, regulations, and orders. The Commission in this respect considers documentation the cornerstone of effective regulation." (Decision 76031, August 19, 1969, Case 8909.)

The testimony of Marie Grande requires special comment. She stated that she correctly billed Lohrman on the basis of actual times, but her bills were altered by Lohrman; whereupon the Grandes quit the job and reported the violations to the Commission via its advertised "hot line."

We will, except with respect to Grande, adopt the staff's recommendation that a fine of \$250 be imposed upon respondent subhaulers for their complicity in these violations. Imposition of these fines will signal the subhaulers serving the industry that we will do everything possible to enforce our rules and regulations. But the interests of justice will be best served, with respect to Arthur Grande, if no fine is assessed. We have made the "hot line" available to the industry to assist us in enforcing our various rate and licensing duties. We would not wish to discourage the use of that communication channel by unduly fining someone who has demonstrated a willingness to support our enforcement programs.

Findings of Fact

1. During the period April, May, and June 1982 Lohrman provided for-hire transportation of earth, in dump truck equipment, for K-West at rates less than the applicable rates provided in MRT 7-A through means of a "time cycle" device.
2. Copies of Lohrman's shipping documents and those of the respondent subhaulers involved in this transportation, contained in Exhibits 3 and 4, are true and correct.
3. The staff's rate statement, Exhibit 5, reflecting total undercharges of \$6,262.97, for the transportation covered by this proceeding, is true and correct.
4. Exhibit 1 (stipulation) provides that Lohrman will pay a punitive fine of \$4,000, under the provisions of PU Code § 3774.
5. Lohrman failed to pay respondent subhaulers in accordance with the provisions of MRT 7-A in connection with the transportation involved in this proceeding.

6. Respondent subhaulers knowingly participated in the collection of rates less than those named in MRT 7-A, through means of the "time cycle" device, and omitted information from their freight bills necessary for the proper determination of applicable rates and charges.

7. Respondent subhauler A. L. Grande assessed hours in accordance with the rules contained in MRT 7-A, but those hours were altered by Lohrman over Grande's objection.

8. Respondents Clyde A. Graves, H&D Trucking, Hawkins Bros. Trucking, and Jordan Trucking failed to obtain copies of MRT 7-A before performing the transportation involved in this proceeding.

9. Lohrman engaged unauthorized carriers as subhaulers, in violation of General Order 102 series.

Conclusions of Law

1. Lohrman has violated PU Code §§ 3664, 3667, 3668, and 3737 by failing to collect applicable minimum rates and charges set forth in MRT 7-A by means of the "time cycle" device and by engaging unauthorized carriers as subhaulers. ✓

2. Lohrman has violated PU code § 3737 by failing to pay subhaulers in accordance with the provisions of Item 210 of MRT 7-A.

3. Respondent subhaulers have violated PU Code §§ 3664, 3667, 3668, and 3737 by participating in the "time cycle" device described in this decision, and by omitting information from their freight bills necessary to the correct determination of applicable rates and charges.

4. Lohrman should be ordered to collect from K-West the difference between the charges actually received and the applicable minimum rates and charges, which amount to \$6,262.97.

5. Lohrman should be ordered to pay to respondent subhaulers the differences between the charges actually paid to them and the charges applicable under the provisions of MRT 7-A.

6. Respondents Clyde A. Graves, H&D Trucking, Hawkins Bros. Trucking, and Jordan Trucking have violated PU Code § 3737 by failing to obtain copies of MRT 7-A prior to performing the transportation involved in this proceeding.

7. A fine of \$313.15 (5% of the total undercharges) should be imposed upon Lohrman under PU Code § 3800.

8. A fine of \$4,000 should be imposed upon Lohrman under PU Code § 3774.

9. A fine of \$250 should be imposed upon each respondent subhauler, except Arthur Grande, under PU Code § 3774.

10. No fine should be imposed on Arthur Grande, under PU Code § 3774. ✓

11. Respondents should be ordered to cease and desist from violating PU Code §§ 3664, 3667, 3668, and 3737.

12. Those respondent subhaulers whose permits have been suspended or revoked should not have their permits activated, or receive new permits, until the fines imposed by this decision and payable by them are received by the Commission.

O R D E R

IT IS ORDERED that:

1. Lohrman Trucking, Inc. (Lohrman) and respondent subhaulers as shown in Attachment A shall cease and desist from violating any and all rules established by this Commission, and from charging and collecting compensation for the transportation of property, or for any service performed in connection with it, in a lesser amount than the applicable rates and charges.

2. Lohrman shall collect the undercharges of \$6,262.97 found by this decision from K-West Engineering and Grading, Inc., (K-West) and pay the Commission a fine in the amount of \$313.15 (5% of the total undercharges), as authorized by PU Code § 3800. The fine shall be paid within 60 days after the effective date of this order. Failure of K-West to remit undercharges shall not relieve Lohrman of its obligation to pay this fine.

3. Lohrman shall pay the Commission a punitive fine of \$4,000, as authorized by PU Code § 3774, within 60 days after the effective date of this order.

4. Lohrman shall promptly take whatever legal steps may be necessary to collect the undercharges found by this decision to be due and payable from K-West.

5. Lohrman's operating authority shall be automatically suspended if the fines imposed above are not timely received.

6. On or before the 60th day after the effective date of this order, each of the respondent subhaulers, except Arthur Grande, shall pay a punitive fine of \$250 to this Commission, as authorized by PU Code § 3774. The operating authority of any respondent subhauler whose fine is not timely received shall be automatically suspended.

7. Lohrman shall remit to respondent subhaulers the differences between charges already paid to them for hauling covered by this OII, and the charges applicable under the provisions of MRT 7-A.

8. Any respondent subhauler who in turn engaged other subhaulers to perform transportation covered by this OII, shall remit to such subhaulers the differences between charges already paid and charges payable under the provisions of Item 210 of MRT 7-A.

9. Lohrman and the respondent subhaulers shall pay the maximum interest allowed by law on all punitive fines imposed by this decision, beginning when payment of the fines is delinquent.

10. The operating authorities of H&D Trucking, Mike Guin, Robert Jacobs, Luis Melgar and Hawkins Brothers Trucking, whose permits have been revoked, and of Jordan Trucking, whose permit is presently in voluntary suspension, shall not be renewed or lifted from suspension until payment of the fines and interest, where due, is received.

11. Lohrman shall file with the Commission on the first Monday of each month a report of any undercharges remaining uncollected 60 days after the effective date of this order, specifying the action taken to collect them and the result of such action, until they have been collected in full, or until further order of the Commission. Failure to file any such monthly report within 15 days after the due date shall result in the automatic suspension of Lohrman's operating authority until the report is filed.

12. Lohrman and the respondent subhaulers are found to have violated PU Code §§ 3664, 3667, 3668, and 3737, and ordered to pay the fines, collect undercharges, and remit payments to subhaulers in accordance with this decision.

13. Carrier and subhaulers are fined as set forth above and the investigation is closed.

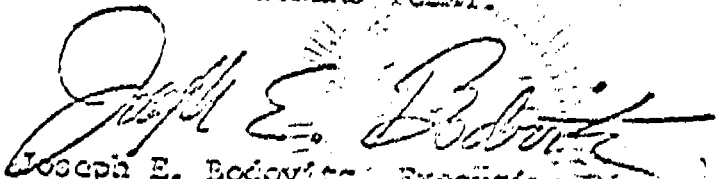
The Executive Director shall have this order personally served upon Lohrman and served by certified mail upon each respondent subhauler and K-West.

The order shall become effective for each respondent 30 days after order is served.

Dated JUN 20 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

Attachment A
Page 1

Yeprem Babakhanloo, Co-partner
8126 Quaker Town Ave.
Canoga Park, CA 91306
T-131,141

Charlie James Early
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T-120,669

Tommy Lee Bennett
Tommy Bennett's Trucking
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T-126,213

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T-137,754

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T-89,583

Otis Farrell
O. Farrell & Son
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T-128,604

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T-48,028

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T-94,465

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T-134,429

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T-132,817

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T-84,250

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T-137,888

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P.O. Box 1787
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T-134,159

Eugene Gust
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Marysville, CA 95901
T-106,549

ATTACHMENT A

Page 2

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T-132,473

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Rex L. Hook Enterprises
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T-125,313

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T-103,837

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T-103,433

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T-124,727

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Robert J. Jacobs Dump Truck Service
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T-72,658

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T-130,024

Dorothy Jordan, co-partner
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T-136,888

ATTACHMENT A
Page 3

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T-128,176

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T-135,004

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T-137,420

William Ritter
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T-52,521

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T-136,085

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T-89,544

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T-100,292

William J. Schuetze
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T-137,570

ATTACHMENT A

Page 4

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T-136,167

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T-117,234

Cage W. Williams, co-partner
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T-130,212

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T-80,805

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T-123,203

Gary R. Saxton
Gary Saxton Trucking
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T-90,008

Staff counsel and counsel for Lohrman entered into a stipulation of facts, issues, and recommended fines (Exhibit 1). The stipulation provides, inter alia, that between April and June 1982 Lohrman transported shipments of earth for K-West at rates less than the applicable rates named in MRT 7-A; that copies of Lohrman's documents prepared by the staff relative to the transportation enumerated in the OII are true and correct; that the document entitled "Summary of Certain Shipping Data Contained in the Records of Lohrman Trucking, Inc. for transportation performed for K-West Engineering and Grading Company, Inc." constituting the staff's rate statement and reflecting total undercharges of \$6,262.97 is true and correct; and that because of Lohrman's culpability in these violations the carrier should pay a punitive fine of \$4,000, authorized under PU Code § 3774. The stipulation also provides that Lohrman will remit any underpayments to subhaulers working for it on the K-West job.

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We have stated our concern with respect to insufficient documentation of shipments transported under rates named in our minimum rate tariffs on numerous occasions:

"The Commission, moreover, again wishes to impress upon those in the industry, who have permitted themselves to fall into a state of lethargy and indifference, that they will have to comply strictly with the statutory provisions and the Commission's rules, regulations, and orders. The Commission in this respect considers documentation the cornerstone of effective regulation." (Decision 76031, August 19, 1969, Case 8909.)

The testimony of Marie Grande requires special comment. She stated that she correctly billed Lohrman on the basis of actual times, but her bills were altered by Lohrman; whereupon the Grandes quit the job and reported the violations to the Commission via its advertised "hot line." The bills Mrs. Grande referred to are four in number, covering transportation performed on May 7 and shown under Lohrman's Invoice 105065 in Exhibit 3. They indicate net chargeable times of 8 or 8½ hours, and were altered by Lohrman to 7.2 hours and paid on that basis. However, these bills omit the information required to be shown pertaining to "Starting Time Last Trip," "Arrival Time at Dump Last Trip," "End Unloading Last Trip", and "Running Time Last Trip." Furthermore, several freight bills issued by the Grandes for hauling performed on April 26, covered by Lohrman's Invoice 104923, similarly omitted this information. Undercharges were found by the staff in connection with all of Grande's freight bills.

We will, except with respect to Grande, adopt the staff's recommendation that a fine of \$250 be imposed upon respondent subhaulers for their complicity in these violations. Imposition of these fines will signal the subhaulers serving the industry that we will do everything possible to enforce our rules and regulations. But the interests of justice will be best served, with respect to Arthur Grande, if a lesser fine--\$125 --is assessed. We have made the "hot line" available to the industry to assist us in enforcing our various rate and licensing duties. We would not wish to discourage the use of that communication channel by unduly fining someone who has demonstrated a willingness to support our enforcement programs.

Findings of Fact

1. During the period April, May, and June 1982 Lohrman provided for-hire transportation of earth, in dump truck equipment, for K-West at rates less than the applicable rates provided in MRT 7-A through means of a "time cycle" device.
2. Copies of Lohrman's shipping documents and those of the respondent subhaulers involved in this transportation, contained in Exhibits 3 and 4, are true and correct.
3. The staff's rate statement, Exhibit 5, reflecting total undercharges of \$6,262.97, for the transportation covered by this proceeding, is true and correct.
4. Exhibit 1 (stipulation) provides that Lohrman will pay a punitive fine of \$4,000, under the provisions of PU Code § 3774.
5. Lohrman failed to pay respondent subhaulers in accordance with the provisions of MRT 7-A in connection with the transportation involved in this proceeding.

6. Respondent subhaulers knowingly participated in the collection of rates less than those named in MRT 7-A, through means of the "time cycle" device, and omitted information from their freight bills necessary for the proper determination of applicable rates and charges.

7. Respondent subhauler A. L. Grande assessed hours in accordance with the rules contained in MRT 7-A, but those hours were altered by Lohrman over Grande's objection.

8. Respondents Clyde A. Graves, H&D Trucking, Hawkins Bros. Trucking, and Jordan Trucking failed to obtain copies of MRT 7-A before performing the transportation involved in this proceeding.

9. Lohrman engaged unauthorized carriers as subhaulers, in violation of General Order 102 series.

Conclusions of Law

1. Lohrman has violated PU Code §§ 3664, 3667, 3668, and 3737 by failing to collect applicable minimum rates and charges set forth in MRT 7-A by means of the "time cycle" device and by engaging unauthorized carriers as subhaulers.

2. Lohrman has violated PU code § 3737 by failing to pay subhaulers in accordance with the provisions of Item 210 of MRT 7-A.

3. Respondent subhaulers have violated PU Code §§ 3664, 3667, 3668, and 3737 by participating in the "time cycle" device described in this decision, and by omitting information from their freight bills necessary to the correct determination of applicable rates and charges.

4. Lohrman should be ordered to collect from K-West the difference between the charges actually received and the applicable minimum rates and charges, which amount to \$6,262.97.

5. Lohrman should be ordered to pay to respondent subhaulers the differences between the charges actually paid to them and the charges applicable under the provisions of MRT 7-A.

6. Respondents Clyde A. Graves, H&D Trucking, Hawkins Bros. Trucking, and Jordan Trucking have violated PU Code § 3737 by failing to obtain copies of MRT 7-A prior to performing the transportation involved in this proceeding.

7. A fine of \$313.15 (5% of the total undercharges) should be imposed upon Lohrman under PU Code § 3800.

8. A fine of \$4,000 should be imposed upon Lohrman under PU Code § 3774.

9. A fine of \$250 should be imposed upon each respondent subhauler, except Arthur Grande, under PU Code § 3774.

~~10. A fine of \$125 should be imposed upon Arthur Grande, under PU Code § 3774.~~

11. Respondents should be ordered to cease and desist from violating PU Code §§ 3664, 3667, 3668, and 3737.

12. Those respondent subhaulers whose permits have been suspended or revoked should not have their permits activated, or receive new permits, until the fines imposed by this decision and payable by them are received by the Commission.

O R D E R

IT IS ORDERED that:

1. Lohrman Trucking, Inc. (Lohrman) and respondent subhaulers as shown in Attachment A shall cease and desist from violating any and all rules established by this Commission, and from charging and collecting compensation for the transportation of property, or for any service performed in connection with it, in a lesser amount than the applicable rates and charges.

2. Lohrman shall collect the undercharges of \$6,262.97 found by this decision from K-West Engineering and Grading, Inc., (K-West) and pay the Commission a fine in the amount of \$313.15 (5% of the total undercharges), as authorized by PU Code § 3800. The fine shall be paid within 60 days after the effective date of this order. Failure of K-West to remit undercharges shall not relieve Lohrman of its obligation to pay this fine.

3. Lohrman shall pay the Commission a punitive fine of \$4,000, as authorized by PU Code § 3774, within 60 days after the effective date of this order.

4. Lohrman shall promptly take whatever legal steps may be necessary to collect the undercharges found by this decision to be due and payable from K-West.

5. Lohrman's operating authority shall be automatically suspended if the fines imposed above are not timely received.

6. ~~On or before the 60th day after the effective date of this~~
~~order, Arthur Grande shall pay a punitive fine of \$125, and each of~~
the other respondent subhaulers shall pay a punitive fine of \$250 to this Commission, as authorized by PU Code § 3774. The operating authority of any respondent subhauler whose fine is not timely received shall be automatically suspended.

7. Lohrman shall remit to respondent subhaulers the differences between charges already paid to them for hauling covered by this OII, and the charges applicable under the provisions of MRT 7-A.

8. Any respondent subhauler who in turn engaged other subhaulers to perform transportation covered by this OII, shall remit to such subhaulers the differences between charges already paid and charges payable under the provisions of Item 210 of MRT 7-A.

9. Lohrman and the respondent subhaulers shall pay the maximum interest allowed by law on all punitive fines imposed by this decision, beginning when payment of the fines is delinquent.

10. The operating authorities of H&D Trucking, Mike Guin, Robert Jacobs, Luis Melgar and Hawkins Brothers Trucking, whose permits have been revoked, and of Jordan Trucking, whose permit is presently in voluntary suspension, shall not be renewed or lifted from suspension until payment of the fines and interest, where due, is received.