

Decision 89 07 050

JUL 19 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operation,)
 rates, and practices of)
 Adams Trucking, Inc. and the)
 individuals, partnerships, or)
 corporations listed as Debtor)
 Respondents in Attachment A,)
 Respondents.)

I.87-01-035
(Petition filed May 24, 1989)

ORDER DENYING MODIFICATION OF DECISION 89-04-087

On April 26, 1989, we issued Decision (D.) 89-04-087 wherein we further modified D.87-08-033 which had previously been modified by D.88-01-035.

On May 24, 1989, Trucking Unlimited filed a "Petition for Modification of the Commission's Order in Decision 89-04-087, April 26, 1989, served April 27, 1989." The petition requests the following:

- "1. That the Commission clarify the sum of undercharges which Adams is ordered to collect, and apparently stands at this time:
 - "a. From Georgia-Pacific as per the order in paragraph 3 of Decision 89-04-087

\$ 20,428.68
 - "b. From Gypsum Drywall as per last report to the Commission from Adams (April 21, 1988)

\$ 36,731.14
 - "c. From Diamond Lumber as per last report to the Commission from Adams (April 21, 1988)

\$ 1,809.52

\$ 58,969.34

and

- "2. That the Commission not lower the fine originally assessed versus Adams in the sum of \$49,627.17, under any circumstances, otherwise the Commission is giving Adams an award instead of a penalty for Adams' further transgressions later revealed; rather the Commission is urged to take notice of the windfall collections developed from audit of the separate violations subsequent to the order of the Commission establishing the original fine, and increase the fine to include the additional undercharges admitted by Adams as a violation of lawful rates applicable to Adams operation under Commission regulation."

With respect to the request in 1.a above, it is clear from Ordering Paragraph 3 of D.89-04-087 that Adams Trucking, Inc. (Adams) has been authorized by the Commission to settle its civil suit against Georgia Pacific Corporation for the sum of \$20,428.68. With respect to 1.b and 1.c above it is clear from the reports filed by Adams the amount of undercharges due from Gypsum Drywall and Diamond Lumber. With respect to 2 above, the argument has previously been set forth by Trucking Unlimited in previous pleadings. We have previously considered the argument and have rejected it.

Findings of Fact

1. It is clear from D.89-04-087 what the amount of undercharges due from Georgia Pacific Corporation total.
2. It is clear from the reports filed by Adams what the amounts of undercharges due from Gypsum Drywall and Diamond Lumber total.
3. The argument with respect to the reduction of the fine has previously been advanced.

Conclusion of Law

The requested modification of D.89-04-087 should be denied.

IT IS ORDERED that the "Petition for Modification of the Commission's Order in Decision 89-04-087, April 26, 1989, served April 27, 1989" is denied.

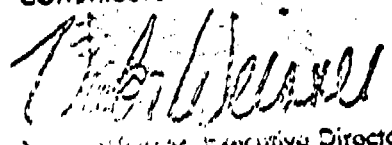
This order is effective today.

Dated JUL 19 1989, in San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Patrick M. Eckert,
being necessarily absent, did
not participate.

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



Victor Weisler, Executive Director

so