

JUL 24 1991

Decision 91-07-031 July 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the operations, rates, and)
 practices of Ronald D. Gray, carrier)
 respondent, and Davis Earthmoving)
 Company, Inc. a California)
 corporation, and J. L. Denio, Inc. a)
 California corporation, as Shipper)
 Respondents,)
 Respondents.)

ORIGINAL

I.91-02-007
(Filed February 6, 1991)

O P I N I O N

Ronald D. Gray (carrier) of Bakersfield transports property for compensation, pursuant to a dump truck carrier permit (T-123,711) issued July 10, 1978. Davis Earthmoving Company, Inc., and J. L. Denio, Inc., (shippers) both of Bakersfield have received transportation services from Gray.

A Transportation Division field investigation indicated that Gray may have provided, by device or otherwise, transportation services to shippers at rates less than the minimum rates established by the Commission in Minimum Rate Tariff (MRT) 7-A, in violation of Public Utilities (PU) Code §§ 3664, 3668, and 3737. In addition, the field investigation indicated that shippers may have procured, by device or otherwise, from Gray transportation services at rates less than those provided in MRT 7-A, in violation of PU Code § 3669.

Accordingly, the Commission issued its Order Instituting Investigation (OII) on February 6, 1991, in this docket to inquire formally into the issues raised by the field investigation. On May 3, 1991, a settlement conference was held in San Francisco, at which Gray appeared by counsel, and where settlement talks were conducted. Other negotiations occurred by telephone and by letter;

and a basis for settling the case was agreed upon by the carrier and the Transportation Division. This settlement in principle was embodied in a Stipulation for Settlement; and it was signed by counsel for the carrier and for the Transportation Division. A copy is appended.

In the stipulation the carrier agrees to pay \$3,000, pursuant to PU Code §§ 3774 and 3805. The amount to be paid in six monthly installments of \$500, beginning 30 days after the issuance of the order approving the stipulation. The Transportation Division recommends that the stipulation be approved.

Findings of Fact

1. The Stipulation for Settlement is reasonable, consistent with law, and in the public interest.
2. The Transportation Division recommends the settlement.
3. The stipulation is uncontested.

Conclusions of Law

1. The stipulation should be adopted.
2. Since this matter is resolved by stipulation, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Ronald D. Gray shall pay \$3,000 to the Commission, pursuant to Public Utilities Code §§ 3774 and 3805, to settle issues raised in this proceeding. The amount shall be paid in six consecutive monthly installments of \$500, the first of which shall be due 30 days after the date of issuance of this decision.
2. All respondents shall henceforth not be subject to any further actions or investigations for undercharges, sanctions, or fines arising from transportation performed by Gray for the shippers listed in the OII to and including the date of this OII; and they shall be relieved of liability for the payment of any

amount other than that specifically agreed to be paid in the stipulation and ordered above.

3. This investigative proceeding is terminated and the docket is closed.

This order is effective today.

Dated July 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director
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APPENDIX
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Investigation on the Commission's own)
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corporation, as Shipper Respondents.)
)
)

I. 91-02-007

STIPULATION FOR SETTLEMENT

THE PARTIES TO THIS PROCEEDING now pending before the Public Utilities Commission desiring to avoid the expense, inconvenience and uncertainty attendant to litigation of the issues in dispute between them have agreed upon a settlement of the said issues and desire to submit to the Public Utilities Commission this stipulation for approval and adoption as its final disposition of the matters herein.

In addition, since this STIPULATION represents a compromise by the Parties, the Parties have entered into it on the basis that the Commission's adoption of said STIPULATION not be construed as an admission or concession by any party regarding the facts or law in dispute in this proceeding. Furthermore, it is the intent and understanding of the parties that Commission adoption of this STIPULATION will not be construed as a precedent or policy statement of any kind for or against the Parties in any current or future proceeding.

I. 91-02-007

NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent RONALD D. GRAY (Gray) agrees to pay an amount to be deposited with the Public Utilities Commission ("Commission") in the sum of \$ 3,000 pursuant to Sections 3774 and 3805 of the Public Utilities Code. This amount is to be paid in six (6) consecutive monthly installments of \$ 500, the first installment due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

2. The staff of the Public Utilities Commission, specifically the Compliance and Enforcement Branch of the Transportation Division, agrees with the terms of this stipulation and recommends to the Commission that these terms be accepted, that this proceeding known as I. 91-02-007 be terminated, that all respondents in I. 91-02-007 shall henceforth not be subject to any future undercharges, sanctions, or fines arising from transportation performed by RONALD D. GRAY to and including the date of this Stipulation, and be relieved of liability for the payment of any amounts other than those specifically agreed to be paid in this stipulation.

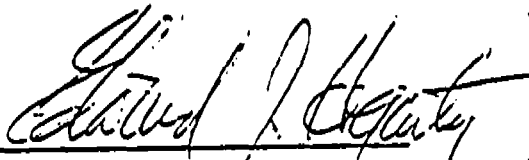
I. 91-02-007

3. The parties enter into this agreement freely and voluntarily.

4. It is understood and agreed that the terms herein are binding

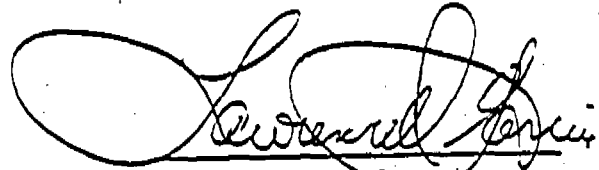
when approved by the Commission.

Dated:



Edward J. Hegarty, Attorney at Law
Counsel for Ronald D. Gray and
Davis Earthmoving Company, Inc.
P.O. Box 699
Orinda, CA 94563

*Upon specific authorization
of Ron Gray dated 5/14/91*



Lawrence Q. Garcia
Attorney at Law
Counsel for Compliance
and Enforcement Branch
of Transportation Division

(END OF APPENDIX)