

Decision No. 87145

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of James A. Roller, an individual, doing business as Jim Roller Trucking; and Southwest Forest Plywood, Inc., a Nevada corporation.

Case No. 10170  
(Filed September 14, 1976)

Walton W. Gill, Attorney at Law, for James A. Roller, an individual, doing business as Jim Roller Trucking, respondent.  
Thomas F. Grant, Attorney at Law, and E. E. Cahoon, 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 James A. Roller, an individual doing business as Jim Roller Trucking, for the purpose of determining whether Roller Trucking transported 30 loads of lumber without charge from Southwest Forest Plywood, Inc., in Burnt Ranch, to the Anderson Lumber Industries, in Redding, for Southwest Forest Plywood, Inc., a Nevada corporation, and whether respondent Roller failed to fully report gross operating revenue as defined in Section 5002 of the Public Utilities Code and failed to pay the Commission the license fee pursuant to Section 4304 of the Public Utilities Code, and the fee required for the transportation rate fund pursuant to Section 5003.1 of the Public Utilities Code.

Public hearing was held before Examiner Fraser at Redding on October 13, 1976, and the matter was submitted on a stipulation which was placed in evidence by staff counsel as Exhibit 1-A. An

*CORRECTION*

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

Decision No. 87145

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of James A. Roller, an individual, doing business as Jim Roller Trucking; and Southwest Forest Plywood, Inc., a Nevada corporation.

Case No. 10170  
(Filed September 14, 1976)

Walton W. Gill, Attorney at Law, for James A. Roller, an individual, doing business as Jim Roller Trucking, respondent.  
Thomas F. Grant, Attorney at Law, and E. E. Cahoon, 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 James A. Roller, an individual doing business as Jim Roller Trucking, for the purpose of determining whether Roller Trucking transported 30 loads of lumber without charge from Southwest Forest Plywood, Inc., in Burnt Ranch, to the Anderson Lumber Industries, in Redding, for Southwest Forest Plywood, Inc., a Nevada corporation, and whether respondent Roller failed to fully report gross operating revenue as defined in Section 5002 of the Public Utilities Code and failed to pay the Commission the license fee pursuant to Section 4304 of the Public Utilities Code, and the fee required for the transportation rate fund pursuant to Section 5003.1 of the Public Utilities Code.

Public hearing was held before Examiner Fraser at Redding on October 13, 1976, and the matter was submitted on a stipulation which was placed in evidence by staff counsel as Exhibit 1-A. An

information sheet on the carrier, the shipping documents which described the concerned transportation, and the staff rate statement were placed in evidence as Exhibits 1-B, 1-C, and 1-D. Respondent Rolleri was represented at the hearing by his attorney. No one was present to represent the respondent shipper. The stipulation was dated October 12, 1976 in Redding and was signed by respondent Rolleri's attorney and by staff counsel. It affirmed that the staff's allegations in the order instituting investigation were all true and correct, that the staff's ratings were true and correct, and that the undercharges from Exhibit 1-D totaled \$5,973.54. It was further stipulated that the total amount of monetary fee and penalty due on \$5,973.54 of revenue unreported for the third quarter of 1975 is \$32.32 pursuant to Sections 4304, 4307(a), 5003.1, and 5007 of the Public Utilities Code.

The stipulation further provides for the assessment of fines in the amount of \$5,973.54 for undercharges pursuant to Section 3800 of the Public Utilities Code, \$32.32 pursuant to Sections 4307(a) and 5007 of the Public Utilities Code, and \$3,500 pursuant to Section 3774 of the Public Utilities Code.

Respondent Rolleri's counsel stated that Rolleri has been operating since October 1960 and has never had a formal investigation instituted against him prior to the present case. His wife is presently a member of the California Trucking Association Committee to revise the minimum rates. Counsel further stated that respondent Rolleri will be filing a petition to deviate from the minimum rates in the near future and that his present position is due primarily to the extreme competition among lumber haulers in California.

In view of the record and the stipulation on file herein, the Commission finds as follows:

1. Respondent Rolleri operates as a radial highway common carrier under a permit issued on October 18, 1960.

2. Respondent Rollerl was served with the appropriate tariffs and all supplements thereto.

3. Respondent Rollerl employs ten people, including drivers, clerical, and mechanics. He works as a mechanic and dispatcher, and his wife maintains the books and also dispatches.

4. Respondent Rollerl operates out of an office and terminal at Redding with seven trucks and seven flat-bed trailers.

5. Respondent Rollerl's gross operating revenue for the year ending with the second quarter of 1976 was \$520,426.

6. Respondent Rollerl has charged and collected a lesser sum for transportation of property than the applicable charges prescribed in Minimum Rate Tariff 2 by transporting 30 loads for respondent Southwest Forest Plywood, Inc. at less than the minimum rates and is thereby in violation of the provisions of Minimum Rate Tariff 2 and Public Utilities Code Sections 3664, 3667, 3668, and 3737.

7. Respondent Rollerl permitted Southwest Forest Plywood, Inc. to obtain transportation services at less than the minimum rates in violation of Sections 3668 and 3737 of the Public Utilities Code by hauling free loads.

8. The transportation of lumber by respondent Rollerl in the transportation identified in Exhibits 1-C and 1-D has been performed at rates less than the authorized minimum resulting in undercharges totaling \$5,973.54.

9. Respondent Rollerl has failed to pay the monetary fee and penalty due on \$5,973.54 of revenue unreported for the third quarter of 1975 in the amount of \$32.32 pursuant to Sections 4304, 4307(a), 5003.1, and 5007 of the Public Utilities Code.

#### Conclusion

Respondent Rollerl has violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code and should pay a fine pursuant to Section 3800 of the Public Utilities Code in the amount of \$5,973.54.

And in addition thereto respondent Rollereri should pay a fine pursuant to Sections 4307(a) and 5007 of the Public Utilities Code in the amount of \$32.32 and a fine of \$3,500 pursuant to Section 3774 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. James A. Rollereri shall pay a fine of \$3,500 to this Commission pursuant to Public Utilities Code Section 3774 on or before the fortieth day after the effective date of this order. James A. Rollereri 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. James A. Rollereri shall pay a fine to this Commission pursuant to Public Utilities Code Section 3800 of \$5,973.54 on or before the fortieth day after the effective date of this order.

3. James A. Rollereri shall pay the sum of \$32.32 to this Commission pursuant to Public Utilities Code Sections 4307(a) and 5007 on or before the fortieth day after the effective date of this order.

4. James A. Rollereri shall take such action, including legal action, as may be necessary to collect the undercharges set forth in Finding 8 and shall notify the Commission in writing upon collection.

5. James A. Rollereri 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 4 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. Failure to file any such monthly report within fifteen days after the due date shall result in the automatic suspension of James A. Rolleri's operating authority until the report is filed.

6. James A. Rolleri 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 Executive Director of the Commission shall cause personal service of this order to be made upon respondent James A. Rolleri and 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 29th day of MARCH, 1977.

Robert Bateman  
President  
William J. Gerson  
John L. Sturgeon  
John D. Swale  
Commissioners