

kd

ORIGINAL

Decision No. 87284

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
 T. & T. TRUCKING, INC., a
 California corporation; and MADERA
 GLASS CO., a California corporation.

Case No. 10037
 (Filed January 27, 1976)

O P I N I O N

This is an investigation instituted on the Commission's own motion to determine whether T. & T. Trucking, Inc., a California corporation, has violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code under its radial highway common carrier and dump truck carrier permits in the transportation of property for Madera Glass Co. The matter was handled by written stipulation between the Commission staff and respondent T. & T. Trucking, Inc. The stipulation provides as follows:

"STIPULATION OF FACTS, ISSUES
 AND PENALTY RECOMMENDATIONS"

"Those parties to the above named action named by Counsels' signatures hereto acknowledge and stipulate that they are in agreement as to the facts, issues and penalty recommendations relevant to this matter, listed specifically as follows:

"1. That respondent T & T Trucking, Inc., a California corporation (hereinafter referred to as 'T & T') operates under permits as a radial highway common carrier and dump truck carrier; it subscribes to and has been served with the applicable minimum rate tariffs; and its principal place of business is in Lodi, California.

"2. That during 1975 members of the Public Utilities Commission staff conducted a review of T & T's operations, rates, charges, and practices. The scope of said review included the transportation listed on the Order Instituting Investigation of this case.

"3. That the ratings of the transportation here in question made by the P.U.C. staff as shown on the exhibit consisting of 13 pages and a cover page prepared by Dale W. Wilkins, Associate Transportation Rate expert, are true and correct, a copy of which exhibit is attached hereto as APPENDIX 1.

"4. That the total undercharges as shown on APPENDIX 1 are in the amount of \$10,425.51.

"5. That these undercharges resulted from the fact that T & T inadvertently did not apply certain increases in rail alternative rates applicable to the transportation involved, as well as certain loading and off rail charges as prescribed by the applicable provisions of Minimum Rate Tariff 7-A. The rates billed (assessed) and the applicable minimum charges are as shown in APPENDIX 1 attached hereto.

"6. That upon review by T & T of the situation as a result of the staff audit, and upon determination that the staff's audit adjustments were correct, balance due bills in the amount of \$10,387.59 were sent by T & T to the shipper, which bills were promptly paid by the shipper in full. The difference between the amount paid and the total amount of undercharges shown on APPENDIX 1 (\$37.92) is being billed by T & T to the shipper.

"7. That under the circumstances of this case the Commission staff and T & T agree that the appropriate disposition of this proceeding be that T & T be assessed and fined in the total amount of \$11,925.51, comprised of a fine

in the amount of \$10,425.51 (the amount of undercharges) pursuant to Section 3800 of the Public Utilities Code, and a fine in the amount of \$1,500 pursuant to Section 3774 of the Public Utilities Code.

"Dated at San Francisco, California on May 27, 1976.

/s/ JAMES SQUERI
James Squeri
Staff Counsel for the Public
Utilities Commission of the
State of California

/s/ MARSHALL G. BEROL
Marshall G. Berol
Attorney for Respondent T & T
Trucking, Inc."

The transportation in question involved 61 hauls of silica sand in bulk from Del Monte Properties Co., Wedron Division, Byron, to Madera Glass Co., Madera. Attached to the stipulation was an extract of the shipping documents setting forth the particulars of each haul, the rate charged, the rate the staff contends should have been charged, and the reason for the staff's contentions.

As findings we adopt the facts as set out in the stipulation. In view of the stipulation by T. & T. Trucking, Inc. and the payment by Madera Glass Co., a public hearing is not necessary.

We conclude that T. & T. Trucking, Inc., has violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code and that T. & T. Trucking, Inc., be fined \$1,500 as set forth in paragraph 7 of the stipulation. ✓

The Commission expects that T. & T. Trucking, Inc., will proceed promptly, diligently, and in good faith to pursue all reasonable measures to collect the uncollected undercharges of \$37.92.

O R D E R

IT IS ORDERED that:

1. T. & T. Trucking, Inc. shall pay a fine of \$1,500 to this Commission pursuant to Public Utilities Code Section 3774 on or before the fortieth day after the effective date of this order. T. & T. Trucking, Inc. 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. T. & T. Trucking, Inc. shall pay a fine to this Commission pursuant to Public Utilities Code Section 3800 of \$10,425.51 on or before the fortieth day after the effective date of this order.

3. T. & T. Trucking, Inc. shall take such action, including legal action, as may be necessary to collect the uncollected undercharges of \$37.92 set forth in the Stipulation of Facts, Issues and Penalty Recommendations and shall notify the Commission in writing upon collection.

4. T. & T. Trucking, Inc. 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 3 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 T. & T. Trucking, Inc.'s operating authority until the report is filed.

5. T. & T. Trucking, 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.

The Executive Director of the Commission shall cause personal service of this order to be made upon respondent T. & T. Trucking, Inc. and cause service by mail of this order to be made upon the other respondent. 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 3rd day of MAY, 1977.

Robert Batistoni
President
William J. Lyons
Leonard L. Stinson
Richard A. Shalk
Commissioners