

Decision No. 87530

June 28, 1977

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 BILLY JUNE
LAWRENCE, an individual, doing
business as Lawrence Trucking,
L. S. Jones Timber Products Corp.,
a California corporation.

Case No. 10279
(Filed March 9, 1977)

O P I N I O N

This is an investigation on the Commission's own motion into the operations, rates and practices of Billy June Lawrence, an individual, doing business as Lawrence Trucking, and L. S. Jones Timber Products Corporation.

By the stipulation^{1/} between the attorneys of record, the following facts have been agreed upon, which we hereby find as facts:

"Respondent Billy June Lawrence, an individual, doing business as Lawrence Trucking (Lawrence), and the staff of the Public Utilities Commission of the State of California (staff), by their respective counsel, hereby stipulate to the following facts and conclusions and agree that the Commission may issue its order herein reflecting the contents of this stipulation.

"1. Respondent Lawrence is, and at all times relevant hereto has been, the holder of a radial highway common carrier permit issued October 16, 1952.

"2. Subject to the exceptions provided for therein, transportation for compensation by motor vehicle in intrastate commerce by Lawrence of commodities listed in Minimum Rate Tariff No. 2, and supplements thereto, is subject to the rates, rules and regulations contained in

1/ The stipulation and its attached Appendix A are received in evidence as Exhibit 1.

said tariff, to Distance Table No. 7 and Exceptions Ratings Tariff No. 1 and to general orders of the Commission applicable to such transportation.

- "3. Respondent Lawrence performed transportation for compensation for L. S. Jones Timber Products Corp. of the commodities and between the points more particularly described in that certain document prepared by the Compliance and Enforcement Branch of the Commission entitled 'Summary of Certain Shipping Data Contained in the Records of Lawrence Trucking for Transportation Performed for L. S. Jones Timber Products Corp. Together with Statements as to the Applicable Minimum Rates for Shipments Reflected by Such Data', a true copy of which is attached hereto as Appendix A and hereinafter referred to as the 'Staff Report'. With exceptions not material to this stipulation, the Staff Report is a true and correct statement of the relevant facts set forth therein.
- "4. Respondent Lawrence assessed and collected rates and charges less than the minimum rates and charges prescribed in the tariff applicable to the shipments described in the Staff Report.
- "5. As a result of the acts of respondent Lawrence in charging less than the minimum rates as set forth in Minimum Rate Tariff No. 2 with respect to the shipments described in the Staff Report, said respondent violated Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code.
- "6. As a consequence of the failure of respondent Lawrence to observe the minimum rates and charges published in Minimum Rate Tariff No. 2 with respect to the shipments described in the Staff Report, L. S. Jones Timber Products Corp. paid less than the applicable minimum rates and charges for such transportation performed by respondent Lawrence. By reason thereof, there is due and owing to respondent Lawrence from L. S. Jones Timber Products Corp. the sum of \$9,158.07.

"7. Respondent Lawrence should be ordered to collect from L. S. Jones Timber Products Corp. the difference between the charges collected and the charges due under the aforementioned Minimum Rate Tariff No. 2, namely, the sum of \$9,158.07, as more particularly set forth in the Staff Report.

"8. Respondent Lawrence should, within 40 days following the effective date of the Commission's order herein on this stipulation, pay a fine of \$1,500 pursuant to Section 3774 of the Public Utilities Code, such fine to be paid in three monthly installments of \$500 each commencing 40 days following the effective date of the order on this stipulation.

"9. Respondent Lawrence should proceed promptly, diligently and in good faith to pursue all reasonable measures, including legal action instituted within the time prescribed by Section 3671 of the Public Utilities Code, as may be necessary to collect the undercharges set forth in the Staff Report.

"10. Respondent Lawrence should pay a fine to the Commission pursuant to Section 3800 of the Public Utilities Code equal to the amount of the undercharges.

"11. Respondent Lawrence should make such periodic reports reflecting his efforts to collect the undercharges referred to herein as the Commission may by its order direct.

"12. Respondent Lawrence should 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 the Commission."

A public hearing is not necessary.

Conclusion of Law

Respondent Billy June Lawrence violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code.

The Commission expects that respondent Billy June Lawrence will proceed promptly, diligently, and in good faith to pursue all reasonable measures to collect the undercharges including legal action instituted within the time prescribed by Section 3671 of the Public Utilities Code. The staff of the Commission will make a subsequent field investigation into such measures. If there is reason to believe that respondent or his attorney has not been diligent, or has not taken all reasonable measures to collect all undercharges, or has not acted in good faith, the Commission will reopen this proceeding for the purpose of determining whether further sanctions should be imposed.

O R D E R

IT IS ORDERED that:

1. Respondent Billy June Lawrence shall pay a fine of \$1,500 to this Commission pursuant to Public Utilities Code Section 3774, such fine to be paid in three consecutive monthly installments of \$500 each commencing on the first day of the month following the fortieth day after the effective date of this order and on the first day of each succeeding month until the fine is paid. Respondent Billy June Lawrence 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. Respondent Billy June Lawrence shall pay a fine to this Commission pursuant to public Utilities Code Section 3800 of \$9,158.07 on or before the fortieth day after the effective date of this order.

3. Respondent Billy June Lawrence shall take such action, including legal action, instituted within the time prescribed by Section 3671 of the Public Utilities Code, as may be necessary to collect the undercharges set forth in Finding 6 and shall notify the Commission in writing upon collection.

4. Respondent Billy June Lawrence 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 respondent Billy June Lawrence's operating authority until the report is filed.

5. Respondent Billy June Lawrence 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 Billy June Lawrence. The effective date of this order shall be twenty days after completion of service on respondent.

Dated at San Francisco, California, this 28th day of JUNE, 1977.

Robert Bateman
President
William S. ...
Verona L. ...
Michael D. ...
Commissioners