

ORIGINAL

Decision No. 88283 DEC 20 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations,)
rates and practices of Chipman)
Corporation, a California)
corporation.)

Case No. 10362
(Filed August 3, 1977)

John Chipman, for Chipman Corporation,
respondent.

Elmer J. Sjostrom, Attorney at Law, and
E. E. Hjelt, for the Commission staff.

O P I N I O N

Respondent is a household goods carrier operating under a permit with its headquarters in Oakland, California. The purpose of this investigation was to determine whether respondent has overcharged shippers by underestimating charges established by the rules in Minimum Rate Tariff 4-B and whether respondent also failed to report or pay to the Commission the penalties provided for in said tariff.

Public hearing was held before Administrative Law Judge Fraser at San Francisco on September 16, 1977 and the matter was submitted on a stipulation of parties which was placed in evidence as Exhibit 1. The shipping documents and the staff rate statement were placed in evidence as Exhibits 1A, 1B, and 1C. The respondent was represented at the hearing by its corporate vice president. None of the shippers appeared at the September hearing. The stipulation was dated September 1, 1977 and was signed by the respondent's vice president and by the staff counsel. It affirmed that the staff allegations and ratings were true and correct and that the facts

were as stated in the findings herein. Respondent's vice president stated that this is the first formal investigation by the Commission that respondent has experienced during its 40 years in business. He stated that the violations resulted from errors made by inexperienced employees that respondent hired to keep up with the expansion of its business.

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

1. Respondent operates under permits as a household goods carrier and a radial highway common carrier. It subscribes to and has been served with the applicable minimum rate tariffs and its principal place of business is in Oakland, California.

2. During 1976 members of the Public Utilities Commission staff conducted a review of respondent's operations for the period July 1, 1975 through March 31, 1976. The scope of the review included the transportation listed on the order instituting investigation in this case.

3. The copies of the documents covering this transportation are included in Exhibit 1. These documents are true and correct copies of the original documents in respondent's files.

4. That the ratings made by the Commission staff in Exhibit 1C are true and correct.

5. That the exhibits reflect overcharge violations in the amount of \$5,152.72 on 50 shipments of used household goods and \$2,152.74 in underestimating penalties accruing under the provisions of Item 33.7 of Minimum Rate Tariff 4-B.

6. That the overcharges shown in the exhibits resulted from respondent's improper execution and use of the addendum order for service in violation of the provisions of Item 33.5 of Minimum Rate Tariff 4-B.

7. That the underestimating penalties accrued under the provisions of Item 33.7 of Minimum Rate Tariff 4-B and that Chipman negligently failed to report or transmit such penalties to the Public Utilities Commission.

8. That the Commission staff and respondent Chipman Corporation have stipulated to a punitive fine of \$3,500 pursuant to Section 5285 of the Public Utilities Code.

Conclusion

Respondent has violated Sections 5139, 5193, 5197, and 5245 of the Public Utilities Code and should pay a punitive fine of \$3,500 pursuant to Section 5285 of the Public Utilities Code. Respondent should refund the overcharges of \$5,152.72 to the 50 shippers previously designated and should pay a penalty of \$2,152.74 pursuant to the provisions of Item 33.7 of Minimum Rate Tariff 4-B.

O R D E R

IT IS ORDERED that:

1. Chipman Corporation shall pay a fine of \$3,500 to this Commission pursuant to Public Utilities Code Section 5285. Such fine is to be paid in seven consecutive \$500 monthly installments commencing on March 1, 1978.

2. Chipman Corporation shall refund the overcharges of \$5,152.72 to the 50 shippers named in the order of investigation. Said refund is to be made in consecutive monthly disbursements totaling no less than \$1,000 a month commencing on March 1, 1978. All refund checks will be forwarded to the Public Utilities Commission staff for transmittal to the shippers concerned.

3. Chipman Corporation shall pay the \$2,152.74 in penalties to this Commission by consecutive monthly installments of no less than \$500 a month commencing on March 1, 1978.

The Executive Director of the Commission shall cause personal service of this order to be made upon the Chipman Corporation.

The effective date of this order shall be twenty days after the completion of service.

Dated at San Francisco, California, this 20th day of DECEMBER, 1977.

Robert Batianich
President
William Sproule, Jr.
Yungui L. Sturgeon
Richard D. Howell

Commissioners

Commissioner Claire T. Dobrick, being necessarily absent, did not participate in the disposition of this proceeding.