

Decision No. 89020 JUN 27 1978

ORIGINAL

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 Pipeline Trucking Company, a California corporation; Tryad Service Corp., Pipe Sales Company, Douglas Steel Supply, Inc., Bernard Steinberg and Company, Burmah Oil Company and Jones Machine Shop, all California corporations; Carter H. Boswell dba Boswell Perforating Company, a California partnership; U.S. Steel Corp., a Delaware corporation; Republic Steel Corp., a New Jersey corporation; Standard Oil of California, a Delaware corporation; Colorado Fuel and Iron, Inc., a Colorado corporation; Cyprus Mines Corp., a New York corporation dba Cyprus Tubing and Conduit.

OII No. 9
(Filed January 17, 1978)

Milton W. Flack, Attorney at Law, for Pipeline Trucking Company; W. A. Goodwin, for Republic Steel Corp.; Guido R. Henry, Jr., Attorney at Law, for Cyprus Mines Corp.; and Karl K. Roos, Attorney at Law, for Douglas Steel Supply, Inc.; respondents.
Steven Weissman, Attorney at Law, for the Commission staff.

O P I N I O N

On its own motion, the Commission instituted this investigation on January 17, 1978 into the operations, rates, charges, and practices of respondent Pipeline Trucking Company (Pipeline) operating as a highway contract carrier under a permit issued November 28, 1973. The following shipper entities

who received transportation services from Pipeline were also named as respondents: Tryad Service Corp.; Pipe Sales Company (PSC); Douglas Steel Supply, Inc. (Douglas); Bernard Steinberg and Company; Burmah Oil Company; Jones Machine Shop; Carter H. Boswell, dba Boswell Perforating Company; U.S. Steel Corp.; Republic Steel Corp.; Standard Oil of California; Colorado Fuel and Iron, Inc.; and Cyprus Mines Corp. (Cyprus), dba Cyprus Tubing and Conduit. The purpose of the investigation was to determine whether Pipeline violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code by charging less than the minimum rates set forth in Minimum Rate Tariff 2 and whether the shipper respondents paid less than the minimum rates for transportation service performed by Pipeline for them.

After due notice, a public hearing was held on April 20, 1978 before Administrative Law Judge Bernard A. Peeters. The matter was submitted on said date subject to filing of a late-filed exhibit.

At the outset of the hearing, the parties indicated that they were in the process of finalizing a stipulation. A brief recess was taken to permit the finalization of the stipulation. It was agreed that the staff would file late-filed rate exhibits in support of the stipulated undercharges. These exhibits have been filed and are received as Exhibit 1, PSC Rate Statement; Exhibit 2, Douglas Rate Statement; and Exhibit 3, Cyprus Rate Statement.

The following stipulation was entered into and orally placed on the record:

1. The staff would withdraw the alleged undercharge violations in connection with all respondents except PSC, Douglas, and Cyprus.
2. PSC undercharges amount to \$621.31.
3. Douglas undercharges amount to \$1,111.25.

4. Cyprus undercharges amount to \$5,990.29.
5. Total undercharges amount to \$7,722.85.
6. The amounts shown in Items 2, 3, and 4 are due and owing to Pipeline from the respective shippers.
7. Pipeline should be ordered to collect the undercharges listed in Items 2, 3, and 4.
8. Pipeline should be ordered to pay a fine of \$7,722.85 pursuant to Section 3800 of the Public Utilities Code.

In connection with the question of whether the Commission should cancel, revoke, or suspend Pipeline's operating authority or, in the alternative, impose a fine pursuant to Section 3774, the staff recommended that neither of these sanctions be imposed inasmuch as this proceeding was an outgrowth of an undercharge citation wherein the application of certain ratings was properly questioned.

Finding of Fact

We adopt Items 2 through 8 of the stipulation as our findings.

Conclusion of Law

Pipeline violated Sections 3664, 3667, 3668, and 3737 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Pipeline Trucking Company (Pipeline) shall pay a fine of \$7,722.85 to this Commission pursuant to Public Utilities Code Section 3800 on or before the fortieth day after the effective date of this order.

2. Pipeline 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 our findings as reflected in Items 2, 3, and 4 of the stipulation and shall notify the Commission in writing upon collection.

3. Pipeline 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 2 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 Pipeline's operating authority until the report is filed.

4. Pipeline 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.

5. This order of investigation is discontinued with respect to respondents Tryad Service Corp., Bernard Steinberg and Company, Burmah Oil Company and Jones Machine Shop, Carter H. Boswell dba Boswell Perforating Company, U.S. Steel Corp., Republic Steel Corp., Standard Oil of California, and Colorado Fuel and Iron, Inc.

The Executive Director of the Commission shall cause personal service of this order to be made upon respondent Pipeline 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 thirty days after completion of service on that respondent.

Dated at San Francisco, California, this 27th day of JUNE, 1978.

William J. Synovius, Jr. President
Vernon L. Sturgeon
Charles D. Shaefer
David J. DeRube Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.