

**ORIGINAL**Decision No. 58139

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)  
 own motion into the operations, ) Case No. 5988  
 rates, and practices of )  
 JAMES H. REED. )

James H. Reed, on behalf of himself,  
 as respondent.  
Frank Campbell, on behalf of the  
 Commission staff.

O P I N I O N

On September 24, 1957, the Commission issued an order of investigation into the operations, rates and practices of James H. Reed, doing business as James H. Reed Trucking. The purpose of this investigation is to determine whether the respondent has acted in violation of Sections 3664 and 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed by the Commission's Minimum Rate Tariff No. 2 (dealing with general commodities).

A public hearing was held on November 19, 1957 at Santa Rosa before Examiner J. F. Mastoris at which time evidence was presented and the matter was duly submitted.

At the time of the hearing, representatives of the Commission's Rate Branch and Field Section testified on behalf of the Commission staff; Mr. James H. Reed testified on his own behalf. From the evidence produced by the staff it appears that there have been numerous violations of said Minimum Rate Tariff No. 2. These violations resulted primarily because the respondent did not assess

the 7% surcharge required under Supplement No. 30 to said tariff with respect to the various shipments of lumber.

Based upon the evidence presented, the Commission hereby finds and concludes that the following facts exist: During the period from May through September 1956, James H. Reed operated as a radial highway common carrier and as a highway contract carrier pursuant to permits issued by the Commission. During this period of time, respondent had in his possession the Commission's Minimum Rate Tariff No. 2, together with all supplements and additions thereto. Likewise, during this period of time, respondent transported certain shipments of lumber which are more particularly set forth in the following table. Further relevant facts relative to these shipments, which the Commission hereby finds, together with our conclusions concerning the correct minimum charges for such shipments, are set forth as follows:

Freight Bill No.	Date	Point of Origin	Point of Destination	Weight in Pounds	Charge Assessed by Respondent	Correct Minimum Charge	Under-charge
08311	8/6/56	Annapolis	San Mateo	48,450	\$162.59	\$178.85	\$16.26
08312	8/7/56	Annapolis	Oakland	49,850	147.06	157.35	10.29
08317	8/15/56	Annapolis	Petaluma	45,700	95.97	107.58	11.61
08322	8/24/56	Annapolis	Palo Alto	36,860	127.19	144.00	16.81
08325	8/30/56	Annapolis	S.F.	45,050	132.89	142.20	9.31
08333	9/4/56	Annapolis	S.F.	41,810	123.34	131.97	8.63
08335	9/5/56	Gualala	Hollister	43,950	184.60	197.51	12.91
6540	5/25/56	Gualala	Hayward	34,900	116.31	128.84	12.53
6545	5/31/56	Annapolis	Santa Rosa	41,100	86.13	92.35	6.22
6546	6/5/56	Annapolis	Sacramento	33,810	116.69	124.80	8.11
6624	5/28/56	Gualala	San Mateo	39,080	130.90	144.27	13.37
6626	5/29/56	Gualala	Oxnard	38,140	266.99	306.07	39.08
6627	6/1/56	Annapolis	Gualala	52,200	44.46	47.48	3.02
6628	6/1/56	Annapolis	Richmond	40,040	118.12	126.39	8.27
6642	6/12/56	Annapolis	Newark	38,700	129.50	153.21	23.71
6675	5/28/56	Annapolis	San Carlos	36,140	121.05	143.08	22.03
6697	7/2/56	Annapolis	Petaluma	57,400	120.55	135.12	14.57
6742	8/18/56	Annapolis	Oakland	40,200	118.59	126.89	8.30
6743	8/20/56	Annapolis	Healdsburg	50,750	86.27	86.88	.61
6747	8/25/56	Annapolis	Gualala	43,000	38.53	39.11	.58
6748	8/25/56	Annapolis	San Jose	48,180	178.25	195.90	17.65
6750	8/28/56	Annapolis	Newark	45,870	158.24	181.60	23.36
6753	8/30/56	Annapolis	Daly City	48,970	144.45	175.53	31.08

Freight Bill No.	Date	Point of Origin	Point of Destination	Weight in Pounds	Charge Assessed by Respondent	Correct Minimum Charge	Under-charge
6863	7/9/56	Annapolis	Cloverdale	42,330	\$ 71.97	\$ 72.47	\$ .50
6878	8/29/56	Annapolis	Daly City	47,340	139.65	169.69	30.04
6879	9/4/56	Annapolis	Gualala	47,790	40.62	43.46	2.84
6881	9/4/56	Gualala	Walnut Cr.	46,010	135.74	145.23	9.49
6905	7/8/56	Annapolis	Hayward	37,040	124.01	136.74	12.73
6909	7/18/56	Annapolis	Cloverdale	52,450	89.14	89.79	.65
6922	8/2/56	Annapolis	El Cerrito	47,100	139.11	148.68	9.57
6925	8/6/56	Gualala	Newark	46,190	159.28	182.86	23.58
6928	8/10/56	Annapolis	Mt. View	40,350	139.21	164.06	24.85
6929	8/10/56	Annapolis	Santa Rosa	63,640	133.69	142.99	9.30
6931	8/14/56	Annapolis	S.F.	40,540	119.60	127.96	8.36
6935	8/24/56	Annapolis	S.F.	41,550	122.53	131.15	8.62
6936	9/4/56	Annapolis	Gualala	50,330	42.79	45.77	2.98
6937	9/5/56	Annapolis	Gualala	45,100	38.35	41.02	2.67
6939	9/5/56	Gualala	Concord	55,310	163.17	174.58	11.41

Respondent testified that the above violations occurred because of his inability to correctly calculate the applicable charges and that he did not deliberately intend to carry lumber at less than the minimum rates.

Based upon the foregoing facts, the Commission hereby finds and concludes that respondent violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a lesser compensation for the transportation of lumber than the applicable minimum rates prescribed by the Commission's Minimum Rate Tariff No. 2 resulting in total undercharges amounting to \$475.90. Respondent's operating rights will be suspended for a period of five days and he will be ordered to collect the undercharges hereinabove found. Respondent will also be directed to examine his records from January 1, 1956 to the present time in order to determine if any additional undercharges have occurred and to file with the Commission a report setting forth the additional undercharges, if any, he has found. Respondent will also be directed to collect any such additional undercharges.

O R D E R

A public hearing having been held in the above-entitled matter and the Commission being fully informed therein, now therefore,

IT IS ORDERED:

(1) That the radial highway common carrier permit No. 49-567 and highway contract carrier permit No. 49-568 issued to James H. Reed, doing business as James H. Reed Trucking, are hereby suspended for five consecutive days starting at 12:01 a.m. on the second Monday following the effective date of this order.

(2) That James H. Reed, doing business as James H. Reed Trucking, shall post at his terminal and station facilities used for receiving property from the public for transportation, not less than five days prior to the beginning of the suspension period, a notice to the public stating that its radial highway common carrier permit and its highway contract carrier permit have been suspended by the Commission for a period of five days.

(3) That James H. Reed, doing business as James H. Reed Trucking, shall examine his records for the period from January 1, 1956 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

(4) That within ninety days after the effective date of this decision, James H. Reed, doing business as James H. Reed Trucking, shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph (3).

(5) That James H. Reed, doing business as James H. Reed Trucking, is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph (3) of this order, and to notify the Commission in writing upon the consummation of such collections.

(6) That in the event charges to be collected as provided in paragraph (5) of this order, or any part thereof, remain uncollected 120 days after the effective date of this order, James H. Reed shall submit to the Commission, on Monday of each week a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such action, until such charges have been collected in full or until further order of the Commission.

(7) The Secretary of the Commission is directed to cause personal service of this order to be made upon James H. Reed, doing business as James H. Reed Trucking, and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 21st day of January 1958.

[Signature]  
 President

[Signature]

[Signature]

[Signature]  
 Commissioners