

**ORIGINAL**

Decision No. 58053

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates, and practices of WALTER B.  
JACOBSEN, doing business as  
JAKE'S TRUCKING COMPANY.

Case No. 6193

Glanz and Russell by R. Y. Schureman, for the  
respondent.  
Edward G. Fraser, for the Commission staff.

O P I N I O N

On October 21, 1958, the Commission issued an order instituting an investigation on its own motion into the operations, rates and practices of Walter B. Jacobsen, doing business as Jake's Trucking Company. This investigation was instituted for the purpose of determining whether the respondent has violated Section 494 of the Public Utilities Code by failing to adhere to the applicable rates and charges set forth in his tariff which is filed with the Commission.

A public hearing was held before Examiner William L. Cole at Los Angeles on January 6, 1959, at which time the matter was taken under submission.

Findings and Conclusions

Based upon all of the evidence of record, the Commission hereby makes the following findings and conclusions:

1. That Walter B. Jacobsen has been issued a certificate of public convenience and necessity to operate as a highway common carrier by this Commission and has also been issued permits as a radial highway common carrier, a city carrier, and a household goods carrier.

2. During the period of time hereinbelow referred to in paragraph 3, the respondent had on file with the Commission, tariffs covering his operation as a highway common carrier. These tariffs were filed on August 16, 1957, and became effective on September 25, 1957.

3. During the months October, November, and December, 1957, the respondent, as a highway common carrier, transported various shipments of property for compensation between various points located in the Los Angeles Territory. Further facts surrounding these shipments, together with the Commission's findings and conclusions as to the correct transportation charges for such shipments, are set forth in the following table:

<u>Date of Shipment</u>	<u>Document Number</u>	<u>Shipper</u>	<u>Charges* Assessed and Collected</u>	<u>Correct Applicable Charge</u>	<u>Amount** of Undercharge</u>
10/1/57	04014	Specialty Paper Box	-	\$ 30.38	-
10/4/57	04015	Specialty Paper Box	\$ 53.70	36.75	\$ 13.43
10/4/57	04176	Advance Paper Box	-	30.38	-
10/8/57	06510	Advance Paper Box	46.38	30.00	14.00
10/12/57	03737	Specialty Paper Box	-	39.08	-
10/14/57	03738	Specialty Paper Box	-	42.60	-
10/14/57	03739	Specialty Paper Box	-	42.38	-
10/14/57	04351	Specialty Paper Box	-	46.88	-
10/15/57	04355	Specialty Paper Box	157.51	45.60	59.03
10/17/57	03741	Specialty Paper Box	-	43.31	-
10/16/57	03742	Specialty Paper Box	-	47.00	-
10/21/57	04366	Specialty Paper Box	91.07	30.40	29.64
10/23/57	04033	Advance Paper Box	-	34.20	-
10/25/57	04034	Advance Paper Box	-	30.04	-
10/22/57	04367	Advance Paper Box	81.89	38.12	20.47
11/16/57	04607	Specialty Paper Box	-	43.95	-
11/18/57	04515	Specialty Paper Box	-	38.70	-
11/19/57	04572	Specialty Paper Box	81.37	30.00	31.28
11/16/57	04563	Advance Paper Box	-	30.08	-
11/19/57	04516	Advance Paper Box	53.94	37.35	13.49
12/2/57	04808	Advance Paper Box	-	44.15	-
12/3/57	04809	Advance Paper Box	-	43.14	-
12/3/57	04851	Advance Paper Box	-	38.84	-
12/4/57	04854	Advance Paper Box	108.25	17.15	35.03
12/2/57	04807	Specialty Paper Box	-	47.59	-
12/4/57	04812	Specialty Paper Box	41.89	11.20	16.90
12/4/57	04811	Specialty Paper Box	-	30.00	-
12/6/57	04855	Specialty Paper Box	-	38.63	-
12/6/57	04856	Specialty Paper Box	76.49	37.95	30.09
12/18/57	04667	Advance Paper Box	-	21.00	-
12/16/57	04714	Advance Paper Box	36.24	30.45	15.21
11/14/57	04512	Glass Container Corp.	-	34.00	-
11/14/57	04601	Glass Container Corp.	37.55	31.23	27.68
11/14/57	04603	Glass Container Corp.	-	33.00	-
11/14/57	04604	Glass Container Corp.	-	33.00	-
11/14/57	03948	Glass Container Corp.	47.00	23.39	42.39

\* Each charge shown in this column represents the charge assessed by the respondent for that particular shipment and those immediately preceding it for which no charges are shown.

\*\* Each undercharge shown in this column represents the resulting undercharge for that particular shipment and those immediately preceding it for which no undercharges are shown.

4. Subsequent to the issuance of the order of investigation in this matter, the respondent rebilled and collected all of the various undercharges hereinabove referred to in paragraph 3. The respondent, however, as of the date of the hearing, had not re-examined his records to ascertain whether there were additional undercharges.

5. The respondent has 6 bobtail trucks, 4 tractors, 2 thirty-five foot trailers, and one twenty-eight foot trailer. Respondent's annual gross revenue for 1958 approximated \$60,000. He has five full time and two part time employees.

#### Violations and Penalty

Based upon the findings and conclusions hereinabove set forth, the Commission further finds and concludes that the respondent has violated Section 494 of the Public Utilities Code by failing to adhere to the applicable rates and charges specified in his tariff schedules filed and in effect at the time the shipments hereinabove referred to in paragraph 3, took place. The undercharges resulting from these violations totaled \$348.64.

The evidence indicates that the respondent improperly consolidated various shipments into single shipments for the purpose of assessing transportation charges. While Item 255 (which requires that shipments be rated separately) and Item 260B (which sets out the multiple lot shipments rule) of the respondent's tariff do not apply to the shipments in question, it is apparent from Item 3320 of the respondent's tariff, which refers to the definition of "shipment", that the shipments in question were improperly consolidated. The evidence also showed that even if the shipments had been properly consolidated, the rates used by the respondent would still have been incorrect under the provisions of

respondent's highway common carrier tariff. The reason for this, as testified by the respondent, is that the respondent and his rate clerk thought that the commodity rates, for the commodities transported in these shipments, as set forth in the Commission's Minimum Rate Tariff No. 5 were also in the respondent's tariff. This was not the case. The respondent testified that he had told his tariff agent to put these commodity rates in his tariff and this was not done, unknown to the respondent.

It is the Commission's conclusion that the respondent's certificate of public convenience and necessity and his radial highway common carrier permit should be suspended for a period of five days. It is the Commission's conclusion, however, that the imposition of this five-day period of suspension should be deferred and suspended for a period of one year. During this one-year period, respondent's operations will be carefully examined by the Commission to ascertain whether he is complying with all orders, rules and regulations of the Commission. If at the end of the one-year period the Commission is satisfied that respondent is complying with all such orders, rules and regulations, the five-day period of suspension will be vacated. However, if the Commission finds at any time during the one-year period that respondent is failing to comply with all such orders, rules and regulations, the five-day period of suspension will be imposed, together with whatever additional penalty the Commission deems necessary.

O R D E R

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

IT IS ORDERED:

1. That the certificate of public convenience and necessity to operate as a highway common carrier and the radial highway common carrier permit issued to Walter B. Jacobsen are hereby suspended for five consecutive days. This five-day period of suspension, however, shall be deferred and suspended pending further order of this Commission. If no further order of the Commission is issued affecting this suspension within one year from the date of issuance of this decision, the five-day period of suspension shall expire.

2. That Walter B. Jacobsen shall examine his records for the period from July 1, 1957 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

3. That within ninety days after the effective date of this decision, Walter B. Jacobsen shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 2.

4. That Walter B. Jacobsen 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 2 of this order, and to notify the Commission in writing upon the consummation of such collections.

5. That, in the event charges to be collected as provided in paragraph 4 of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, Walter B. Jacobsen shall submit to the Commission, on the first Monday of each month, 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 this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Walter B. Jacobsen and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 24th day of February, 1959.

E. J. Fox  
President

Walter B. Jacobsen

Theodore J. ...

Evelyn ...  
Commissioners