

ORIGINAL

Decision No. 59496

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations, rates
and practices of FRANK R. LAWRENCE,
doing business as LAWRENCE TRANSPORTATION.

Case No. 6280

Frank R. Lawrence, in propria persona.
Karl K. Roos, for the Public Utilities Com-
mission staff.

O P I N I O N

A public hearing was held in this matter on November 10, 1959, at Indio, before Examiner Grant E. Syphers, and on that date evidence was adduced and the matter submitted. It now is ready for decision.

The respondent conducts trucking operations under authority of Radial Highway Common Carrier Permit No. 33-1042, dated February 17, 1949. This investigation is concerned with three principal types of alleged violations: (1) whether the respondent has collected the proper rates, (2) whether he has collected transportation charges within the time limits prescribed, and (3) whether he has transported empty containers without compensation.

The evidence submitted by the staff consists of records of twenty-five shipments hauled by the respondent between the Indio area and Los Angeles and between the Indio area and San Jose, during the period from March 3 to June 27, 1958. There was no dispute in the evidence as to the fact that respondent transported

these shipments on the dates set out and made the charges indicated therefor. In most of these shipments the respondent assessed rates lower than the applicable rates or did not use correct weights, or both. In one instance, part 19, the respondent assessed a rate of 5 cents per grape stake hauled and did not make his charges in cents per hundred pounds. In two of the shipments, parts 18 and 19, he did not bill within the seven-day period nor make the collection within the time allowed therefor. None of these facts were disputed at the hearing.

A consideration of all of the evidence adduced herein leads us to find that the respondent has violated Sections 3664, 3667 and 3737 of the Public Utilities Code in that he has charged and collected a lesser compensation for the transportation of property over the public highways than the applicable charges prescribed in Minimum Rate Tariffs Nos. 2 and 8. We further find that respondent has violated Sections 3703, 3704 and 3737 of the Public Utilities Code by failing to collect transportation charges within the time limits prescribed by Minimum Rate Tariffs Nos. 2 and 8.

The evidence also disclosed, and there was no dispute thereon, that the respondent transported empty containers on return movements without any charge therefor. We find that this is in violation of Section 3668 of the Public Utilities Code and also the provisions of Minimum Rate Tariff No. 8 in this regard.

Upon this state of the record, therefore, we conclude that this respondent should be ordered to cease and desist from any further violations of the applicable rules and regulations and the provisions of the law, and likewise that his operating authority should be suspended for a period of five days. We further find that he should be required to collect the undercharges as set out in Appendix A attached hereto. Respondent will also be directed to examine his records from March 1, 1958 to the present time in order to determine whether any additional undercharges have occurred, and to file with the Commission a report setting forth the additional undercharges, if any, he has found. He will also be directed to collect any such additional undercharges.

O R D E R

An order of investigation having been instituted, public hearing having been held thereon, the Commission being fully advised in the premises and having made the foregoing findings,

IT IS ORDERED that Frank R. Lawrence be, and he hereby is, ordered and directed to cease and desist from any and all unlawful operations and practices in connection with the transportation of property subject to the rules and regulations of this Commission.

IT IS FURTHER ORDERED:

(1) That Radial Highway Common Carrier Permit No. 33-1042, issued to Frank R. Lawrence, be suspended for a period of five consecutive days commencing at 12:01 a.m., on the first Monday following the effective date of this order.

(2) That respondent 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 his Radial Highway Common Carrier Permit has been suspended by the Commission for a period of five days; that within five days after such posting respondent shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

(3) That respondent shall examine his records for the period from March 1, 1958 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, respondent shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph (3).

(5) That respondent is hereby directed to take such action as may be necessary, including court proceedings, to collect the amounts of undercharges set forth in Appendix A, 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 undercharges to be collected as provided in paragraph (5) of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, respondent 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 undercharges and the results of such, until such undercharges have been collected in full or until further order of this Commission.

The Secretary of this Commission is directed to cause personal service of a certified copy of this order to be made on Frank R. Lawrence, and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 12th day of January, 1960.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

APPENDIX "A"

<u>Bill No.</u>	<u>Date</u>	<u>Charge assessed by respondent</u>	<u>Correct Minimum Charge</u>	<u>Undercharge</u>
24957-D	3- 3-58	\$ 32.55	\$ 51.27	\$ 18.72
24961-D	3- 4-58	26.04	41.01	14.97
24948-D	3- 5-58	18.23	28.71	10.48
25204-D	3- 6-58	19.53	30.77	11.24
24973-D	3- 7-58	13.02	22.46	9.44
25186-D	3-11-58	26.04	41.01	14.97
23966-D	3-12-58	26.04	41.01	14.97
26159-D	5- 5-58	30.60	47.63	17.03
26903-D	6- 1-58	35.28	46.31	11.03
26592-D	6- 2-58	36.54	46.04	9.50
26919-D	6- 5-58	37.04	46.67	9.63
27252-D	6-17-58	9.70	14.49	4.79
27517-D	6-21-58	37.31	43.34	6.03
27565-D	6-27-58	29.32	34.05	4.73
24999-D	3-12-58	40.86	85.30	44.44
25189-D	3-22-58	2.60	16.64	14.04
25742-D	4-17-58	20.00	43.20	23.20
25884-D	4-18-58	22.69	47.00	24.31
26091-D	5- 9-58	35.00	62.00	27.00
25997-D	5-19-58	14.44	68.00	53.56
27382-D	6-16-58	41.64	51.36	9.72
27319-D	6-20-58	14.40	30.78	16.38
27550-D	6-23-58	28.20	38.52	10.32
27695-D	6-27-58	13.05	30.78	17.73
Total undercharges				\$ 398.23