

ORIGINALDecision No. 62521

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of DAILY TRUCKING
SERVICE, a California corporation.

Case No. 7110

Paul, Hastings and Janofsky, by Oliver F. Green,
for respondent.

Walter Linsted, for the Commission staff.

O P I N I O N

On May 9, 1961, the Commission instituted an investigation into the operations, rates and practices of Daily Trucking Service, a California corporation, which is engaged in the business of transporting property over the public highways as a radial highway common carrier. The corporation also has permits as a highway contract carrier and a city carrier.

Public hearing was held before Examiner Martin J. Porter on July 13, 1961, at Los Angeles, on which date the matter was submitted.

Purpose of Investigation

The purpose of this investigation is to determine whether respondent has violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a rate less than the minimum established under Minimum Rate Tariff No. 2.

Facts

The Commission's staff presented evidence that 125 shipments were examined for the period of May 1960 through June 1960; twenty shipments were selected as representative. The rating of

these twenty shipments disclosed undercharges in each instance. The primary cause was respondent's failure to secure proper documentation before affording the shipper split pickup rates.

The respondent offered no evidence.

It was stipulated that the respondent possesses Radial Highway Common Carrier Permit No. 19-44503; Highway Contract Carrier Permit No. 19-43739, and City Carrier Permit No. 19-44509; is a California corporation and has been duly served with applicable minimum rate tariffs and distance tables, modifications and supplements thereto, applicable to the transportation herein involved.

Findings and Conclusions

Based upon the evidence of record, we hereby find and conclude:

1. That respondent is engaged in the transportation of property over the public highways for compensation as a radial highway common carrier.
2. That respondent has permits authorizing it to transport property as a city carrier, a highway contract carrier, and a radial highway common carrier.
3. That respondent assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 2, which resulted in undercharges as follows (from Exhibit No. 2):

<u>Freight Bill No.</u>	<u>Date</u>	<u>Charges Assessed or Collected by Respondent</u>	<u>Correct Charge</u>	<u>Under-Charge</u>
10931	5/21/60	\$130.72	\$269.33	\$ 89.11
11049	5/27/60	172.74	259.73	86.99
11020	5/31/60	123.35	142.21	18.86
11071	6/ 8/60	162.76	214.25	51.49
11068	6/ 9/60	113.16	126.90	13.74
11069	6/10/60	224.05	300.58	76.53
11076	6/10/60	85.40	96.22	10.82
11067	6/13/60	406.22	610.48	204.26
11091	6/13/60	106.97	190.41	83.44
11087	6/14/60	90.47	105.96	15.49
11083	6/16/60	162.00	254.58	92.58
11107	6/16/60	116.19	315.27	198.08
11082	6/17/60	162.00	207.50	45.50
11093	6/17/60	142.01	177.53	35.52
11105	6/21/60	88.77	128.86	40.09
11109	6/24/60	198.16	207.00	9.00
11102	6/21/60	178.09	213.07	34.98
11110	6/29/60	171.81	246.35	74.54
11116	6/30/60	286.21	480.30	194.09
11117	6/30/60	79.66	137.12	57.46

Undercharges for these shipments amounted to \$1,432.57

4. That respondent violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a compensation less than the prescribed minimum established by this Commission in Minimum Rate Tariff No. 2.

5. That respondent's permits should be suspended for a period of five consecutive days and that it should be directed to collect the undercharges herein found together with any additional undercharges found after the examination required by the ensuing order.

ORDER

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED that Radial Highway Common Carrier Permit No. 19-44508, Highway Contract Carrier Permit No. 19-48739 and City Carrier Permit No. 19-44509 issued to Daily Trucking Service, a corporation, are hereby suspended for five consecutive days

starting at 12:01 a.m. on the second Monday following the effective date of this order; and that it shall not lease the equipment or other facilities used in operations under these permits for the period of the suspension or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. That respondent shall post at its 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, highway contract carrier, and city carrier permits have 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 its records for the period from January 1, 1960 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 complete the examination of its records hereinabove required by paragraph 3 and file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. That respondent is hereby directed to take such action, including legal 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 one hundred twenty days after the effective date of this order, respondent shall institute legal proceedings to effect collection and 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, 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 Daily Trucking Service and the effective date of this order shall be twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 5th day of September, 1961.

[Signature]
President
[Signature]
[Signature]
George C. Foster
Fredrick B. Holhoff
Commissioners