

ORIGINAL

Decision No. 65637

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own motion into the operations, )  
rates and practices of Edward A. )  
Geis and Peter P. Krahn, dba )  
GEIS-KRAHN TRUCKING and G-K )  
TRUCKING. )

Case No. 7476

James C. Janjigian, for respondents.

Hugh Orr and Frank O'Leary, for the Commission staff.

O P I N I O N

On November 7, 1962, the Commission instituted its investigation into the operations, rates, charges and practices of Edward A. Geis and Peter P. Krahn, doing business as Geis-Krahn Trucking and G-K Trucking.

Public hearing was held before Examiner Porter on March 6, 1963 at Fresno, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondents in violation of Sections 3664 and 3667 of the Public Utilities Code have charged, demanded or received a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2, and supplements thereto.

The staff selected a review period of September 18, 1961 through May 7, 1962, during which period 180 shipments were examined.

Twenty-eight were selected as representative and forwarded to the Rate Analysis Unit of the Commission and undercharges were found in each instance. The undercharges resulted in general from (1) a failure to assess off-rail charges and switching charges when applicable and (2) assessing a rail rate but not observing applicable minimum weights.

Respondents' defense was to the effect that they had relied on advice letters from Pacific Southcoast Freight Bureau and Southern Pacific Company (Exhibits Nos. 8-9-10) as to the applicable rates. The staff rate expert pointed out that respondents had not observed the minimum as therein set forth.

It was stipulated that Radial Highway Common Carrier Permit No. 54-4740 was issued to respondents and that they were served with Minimum Rate Tariff No. 2, Distance Table No. 4 and applicable supplements thereto.

Based upon the evidence we find that:

1. Respondents are engaged in the transportation of property over the public highways for compensation as a radial highway common carrier.
2. Respondents 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:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Charge Assessed or Collected by Respondents</u>	<u>Correct Charge</u>	<u>Undercharge</u>
455	10/27/61	\$171.11	\$262.39	\$ 91.28
425	10/30/61	179.54	274.98	95.44
457	10/31/61	164.35	252.41	88.06
427	11/ 2/61	178.44	273.34	94.90
429	11/ 5/61	192.72	199.61	6.89
459	11/ 4/61	165.19	253.56	88.37
559	11/ 6/61	225.44	303.86	78.42
461	11/ 9/61	174.11	189.39	15.28
463	11/14/61	172.24	189.39	17.15
430	11/16/61	177.53	189.39	11.86
562	11/11/61	172.44	221.54	49.10
560	11/ 9/61	193.61	260.96	67.35
563	11/15/61	232.39	313.22	80.83
930	12/11/61	108.81	189.39	80.58
979	12/11/61	85.96	174.27	88.31
544	12/16/61	217.50	221.27	3.77
468	12/15/61	205.00	270.52	65.52
901	12/16/61	167.54	237.36	69.82
875	12/18/61	190.89	282.85	91.96
903	12/21/61	226.50	331.14	104.64
401	12/18/61	125.34	189.39	64.05
931	12/13/61	110.38	189.39	79.01
546	12/20/61	211.11	222.15	11.04
547	12/23/61	215.80	223.45	7.65
513	3/19/62	177.06	189.39	12.33
806	3/20/62	178.96	189.39	10.43
515	3/22/62	165.20	189.39	24.19
808	3/23/62	176.55	189.39	12.84

Undercharges for these shipments amounted to \$1,511.07

Based on the foregoing findings we conclude that respondents violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a compensation less than the minimum established by this Commission in Minimum Rate Tariff No. 2.

### O R D E R

IT IS ORDERED that:

1. If on or before the twentieth day after the effective date of this order, respondent has not paid the fine referred to in paragraph 7 of this order, then Radial Highway Common Carrier Permit

No. 54-4740 issued to Edward A. Geis and Peter P. Krahn is hereby suspended for five consecutive days starting at 12:01 a.m., on the second Monday following the effective date of this order. Respondents shall not, by leasing the equipment or other facilities used in operations under this permit for the period of suspension, or by any other device, directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. Respondents shall post at their 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 their radial highway common carrier permit has been suspended by the Commission for a period of five days. Within five days after such posting respondents shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. Respondents shall examine their records for the period from September 18, 1961 to the present time, for the purpose of ascertaining all undercharges that have occurred.

4. Within ninety days after the effective date of this order, respondents shall complete the examination of their records required by paragraph 3 of this order and shall file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. Respondents shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, together with those found after the examination required by paragraph 3 of this order, and shall notify the Commission in writing upon the consummation of such collections.

6. In the event undercharges ordered to be collected by paragraph 5 of this order, or any part of such undercharges, remain uncollected one hundred twenty days after the effective date of this order, respondents shall institute legal proceedings to effect collection and shall file with the Commission, on the first Monday of each month thereafter, a report of the undercharges remaining to be collected and 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.

7. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$3,000 to this Commission on or before the twentieth day after the effective date of this order.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 2nd day of July, 1963.

George F. Grover  
President  
John J. L. ...  
W. E. ...  
Fredrick B. Holtsuff  
William W. ...  
Commissioners