

**ORIGINAL**

Decision No. 69815

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's	)	
own motion into the operations,	)	
rates and practices of FLOYD PAGE,	)	Case No. 8064
JR., dba PAGE TRUCKING CO.	)	

Floyd Page, Jr., for respondent.  
B. A. Peeters and J. B. Mannigan,  
 for the Commission staff.

O P I N I O N

By its order dated November 17, 1964, the Commission instituted an investigation into the operations, rates and practices of Floyd Page, Jr., doing business as Page Trucking Co.

A public hearing was held before Examiner Porter on May 18, 1965, at Los Angeles.

Respondent presently conducts operations pursuant to a radial highway common carrier permit. Respondent has terminals in Los Angeles and Imperial, California. He owns and operates 9 tractors and 18 trailers, refrigeration type. His total gross revenue for the year 1964 was \$290,728. Copies of appropriate tariffs and distance tables were served upon respondent.

A representative of the Commission's License and Compliance Branch visited respondent's place of business and checked his records for the period January 1, 1963 to October 31, 1963.

Underlying documents relating to 20 shipments were selected and together with supplemental information forwarded to the License and Compliance Branch of the Commission's Transportation Division. Based upon the documents and information furnished, a rate study was prepared and introduced in evidence as Exhibit No. 2.

Parts 1 through 11, Exhibit No. 2, were shipments of salt. The documentation shows that there were no written instructions prior to the first pickup and none of the shipments were picked up within two days as required by Minimum Rate Tariff No. 2. In parts 3, 4, 6, 7, 10 and 11 of Exhibit No. 2 the documents show that respondent failed to assess a loading charge. The rate expert testified that this resulted in undercharges in the amount of \$1,020.29. Part 12, Exhibit No. 2, is an obvious error in arithmetic and resulted in an undercharge in the sum of \$10.20. Parts 13 through 20, Exhibit No. 2, resulted in undercharges in the amount of \$34.75 because the respondent used incorrect rates and weights.

The staff also presented evidence that respondent had constructed fish bins for the hauling of fish at a cost of \$2,613.23. It is the staff's contention that this sum was a rebate to the shipper.

Respondent testified that these bins were his property; that he has complete control of the bins; that the use of the bins has resulted in a saving to himself and to the shipper in labor costs; and that the bins protect his equipment. As to the salt haul, the respondent testified that he has lost the account involving the transportation of salt.

After consideration the Commission finds that:

1. Respondent operates pursuant to a radial highway common carrier permit.
2. Respondent was served with appropriate tariff and distance table.
3. Respondent charged less than the lawfully prescribed minimum rates in the instances set forth in Exhibit No. 2 resulting in undercharges in the amount of \$1,065.24.

4. Respondent constructed and furnished fish bins for transporting fish for a shipper without any charge being assessed for the use of such bins.

Based on the foregoing findings of fact the Commission concludes that respondent violated Sections 3667 and 3737 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Respondent shall pay a fine of \$2,000 to this Commission on or before the twentieth day after the effective date of this order.
2. Respondent shall examine his records for the period from January 1, 1963 to the present time, for the purpose of ascertaining if any undercharges have occurred other than those mentioned in this decision.
3. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in Exhibit No. 2, together with any additional undercharges disclosed by the examination required by paragraph 2 of this order, and shall notify the Commission in writing upon the consummation of such collections.
4. In the event undercharges ordered to be collected by paragraph 3 of this order, or any part of such undercharges, remain uncollected sixty days after the effective date of this order, respondent shall proceed promptly, diligently and in good faith to pursue all reasonable measures to collect them; respondent shall file with the Commission, on the first Monday of each month after the end of said sixty days, 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.

5. Respondent shall cease and desist from supplying fish bins or any other facilities or equipment unless or until proper tariff authority is obtained therefor.

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

Dated at San Francisco, California, this 19th day of OCTOBER, 1965.

Fredrick P. Halchoff  
President

George L. Crocker

Augusta

William W. Bennett

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.