

Decision No. 40727

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOHN C. AVILA for a Radial Highway)
Common Carrier Permit.)

Application No. 16-970

John C. Avila, in propria persona.

O P I N I O N

This is an application of John C. Avila for a radial highway common carrier permit. A public hearing was held in Fresno on January 12, 1950, before Examiner Gannon and the matter was submitted.

The record shows that Avila filed an application for a radial highway common carrier permit on September 13, 1944, which was cancelled on October 18, 1944, because of failure to keep on deposit continuous adequate insurance, as required by Section 5 of the Highway Carriers' Act (Statutes 1935, Chap. 223, as amended). There were additional revocations or cancellations on March 27, 1945, April 25, 1946, March 11, 1946, June 21, 1948 and February 28, 1949, for failure to provide insurance and also for failure to pay fees pursuant to the provisions of Section 1 of the Transportation Rate Fund Act. Over a period of four years there were five revocations and two cancellations of applicant's permitted operating authority.

Evidence relative to applicant's operation was presented by members of the Commission's staff. A summary of their testimony established the fact that applicant continued to operate

without a permit, notwithstanding repeated written and oral warnings. Complaints were filed in the Justice's Court of Lemoore Township, Kings County, by a Commission employec, against the applicant on September 10, 1948, and October 20, 1949, charging violation of Section 3 of the Highway Carriers' Act. This resulted, in the first instance, in the imposition of a fine of \$50 and one year's probation, and in the second instance in a fine of \$250, which was later reduced to \$100 by court order.

Despite continued notices and warnings applicant continued to operate without authority. The record indicates conclusively that he ignored the Commission's repeated demands that he at all times keep adequate insurance on deposit with the Commission. He testified that he invariably allowed these notices to remain unopened in his office. While his testimony is that he was unable to read, the record shows that his son acted as interpreter at the hearing and his services were at all times available to the applicant.

It is apparent from the record in this proceeding that applicant is guilty of wilfully violating Section 5 of the Highway Carriers' Act in that he has failed to keep on deposit with the Commission continuous adequate insurance. Further than that, he continued to operate after receiving notice of revocation of his permit, a violation of Section 3 of said Act. Because of the evidence of record the Commission concludes this application should be denied.

O R D E R

Application as above entitled having been filed, a public hearing having been held, the matter having been submitted

and the Commission being fully advised in the premises,

IT IS ORDERED that the application of John C. Avila for a radial highway common carrier permit be, and it hereby is, denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at Los Angeles, California, this 1st day of February, 1949.

A. Z. [Signature]
Justin J. [Signature]
Grant [Signature]
Harold [Signature]
[Signature]
Commissioners