

ORIGINALDecision No. 45343

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
 rates, and practices of THEODORE T.) Case No. 5226
 VIOLETTE, doing business as TRANS-)
 HARBOR TRUCKING.)

Harold J. McCarthy, attorney for Public Utilities Commis-
 sion. Theodore T. Violette, Respondent, appearing in propria
 persona.

O P I N I O N

This proceeding was instituted upon the Commission's own motion, by the service of an order of investigation upon respondent, in order to determine whether (1) respondent has violated Sections 10, 12(a), and 13-5/8 of the Highway Carrier's Act; (2) respondent's operating authority or any part thereof should be cancelled, revoked, or suspended; (3) respondent should be ordered to collect any or all undercharges for shipments transported by him; (4) respondent should be ordered to cease and desist from assessing and collecting less than the minimum rates and charges prescribed by the Commission for any or all transportation performed by him. The order recites that respondent, holder of Radial Highway Common Carrier Permit No. 19-34869, Contract Carrier Permit No. 19-39760, and City Carrier Permit No. 19-34870 (correct number 19-40373), appears to have failed, during the period of September and October, 1949, to assess and collect minimum charges required by Highway Carriers' Tariff No. 2.

Public hearing was held in Los Angeles on October 24, 1950, before Examiner Rogers, and the matter was submitted for decision.

Respondent has been engaged in transporting steel plate and pipe since 1945. The Commission's records show that Highway Carriers' Tariff No. 2 and supplements thereto were served on respondent prior to August, 1949.

A document received into evidence as Exhibit No. 5 shows that, in the period between September 19, 1949, and October 26, 1949, both days inclusive, respondent transported 53 shipments of steel plate, each shipment being in excess of 36,000 pounds, between Fontana and Torrance, a distance of 62.5 miles, at the rate of 12 cents per 100 pounds. The evidence shows that the applicable minimum rate prescribed by the Commission in Highway Carriers' Tariff No. 2 is 16 cents per 100 pounds for such transportation. Exhibit No. 5 shows, further, that, in the period between September 19, 1949, and October 26, 1949, both dates inclusive, respondent transported 65 shipments of steel pipe from Torrance to Long Beach, a distance of six miles, at the rate of \$1.50 per ton, or $7\frac{1}{2}$ cents per 100 pounds. The evidence shows that the applicable minimum rates prescribed by the Commission in Highway Carriers' Tariff No. 2 are 10 cents per 100 pounds on 62 of the shipments, 11 cents per 100 pounds on two of the shipments, and 19 cents per 100 pounds on one shipment.

The respondent testified that the carriage of steel plate from Fontana to Torrance and the transportation of the pipe made from these steel plates from Torrance to Long Beach constituted 90%

of his hauling; that, prior to September, 1949, applicant was advised that a competitor had secured authority from the Commission to perform the specified hauling at the rates applicant charged during September and October, 1949, and that, to meet this competition, applicant reduced his rates from the rates specified in Highway Carriers' Tariff No. 2 to the rates which Exhibit No. 5 shows he charged during September and October, 1949. Respondent testified that he has never applied to the Commission for authority to charge less than the minimum rates prescribed by Highway Carriers' Tariff No. 2.

The record in this proceeding shows that respondent has assessed and collected lower transportation charges than prescribed by the Commission as minima for the services performed, without prior authority from the Commission so to do.

We find that, in assessing and collecting less than the appropriate minimum charges prescribed by the Commission in Highway Carriers' Tariff No. 2, respondent violated Sections 10, 12(a), and 13-5/8 of the Highway Carriers' Act.

Respondent will be directed to cease and desist from assessing or collecting less than the minimum rates and charges prescribed by the Commission by Highway Carriers' Tariff No. 2 for any and all transportation performed by him, and to assess and collect, within 10 days after the effective date of this order, the lawful charges on the shipments described in the appendix attached hereto, and the lawful charges on all other transportation performed by him since September 1, 1949, pursuant to a permit or permits issued by this Commission. A copy of this decision will be served upon each of the shippers and consignees listed in such appendix. In this connection, attention is called to the provisions of the

Highway Carriers' Act with respect to penalties for violations thereof, and for aiding and abetting carriers in such violations.

Evidence as to respondent's operations pursuant to its city carriers' permit was not offered herein and, therefore, we make no finding with reference thereto.

O R D E R

Public hearing having been held in the above-entitled proceeding, evidence having been received and considered, the Commission now being fully advised and basing its order upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 19-34869 and Highway Contract Carrier Permit No. 19-39760, held by Theodore T. Violette, doing business as Trans-Harbor Trucking, respondent herein, be, and they hereby are, suspended for a period of five (5) days commencing on the effective date of this order.

(2) That Theodore T. Violette be, and he hereby is, ordered, within ten days after the effective date of this order (1) to assess and collect, on the shipments specified in the appendix annexed hereto, and all other transportation performed by him since September 1, 1949, pursuant to a permit or permits issued by this Commission, the difference between (a) the amounts collected and (b) those which would result from applying the contemporaneous rates or charges provided for in the Commission's Highway Carriers' Tariff No. 2, as amended, and (2) to notify the Commission, in writing, of the consummation of said collections.

(3) That Theodore T. Violette forthwith cease and desist from assessing or collecting less than the minimum rates and charges prescribed by the Commission by Highway Carriers' Tariff No. 2 for any and all transportation performed by him.

(4) That Theodore T. Violette, in the event he has been unable to assess and collect all of the charges specified in paragraph (2) of this order within ten days after said order becomes effective, shall submit to the Commission on Monday of each week, until all of said charges are collected or unless otherwise ordered by the Commission, a report specifying the action taken to collect said charges and the results of said action.

The Secretary is directed to cause a certified copy of this decision to be served, either personally or by registered mail, upon the respondent and upon each of the shippers and consignees listed in the appendix attached to this order.

The effective date of this order shall be twenty (20) days after the date of such service.

Dated at San Francisco, California, this 6th day of February, 1951.

W. T. Anderson
Justin Z. Cramer
Harold P. Kula
Samuel L. Lott
Pete E. Mitchell
COMMISSIONERS

APPENDIX

Shipments Transported by Respondent, Amount of
Charges Collected, and Amount of Charges Based
on Prescribed Minimum Rates

Freight Bill No.	Date	Consignor	Consignee	Collected	Applicable Min. Chgs.
1213	10/5/49	Kaiser Steel Fontana, Calif.	Cal.-Metals Corp. Torrance, Calif.	\$ 652.00	\$ 869.34
1229	10/12/49	Kaiser Steel Fontana, Calif.	Cal.-Metals Corp. Torrance, Calif.	1118.27	1491.02
1274	10/26/49	Kaiser Steel Fontana, Calif.	Cal.-Metals Corp. Torrance, Calif.	688.07	917.44
1199	9/30/49	Cal.-Metals Corp. Torrance, Calif.	Cal.-Metals Corp., Pier A, Berth 4, Long Beach, Calif.	344.32	479.08
1252	10/19/49	Cal.-Metals Corp. Torrance, Calif.	Cal.-Metals Corp., Pier A, Berth 4, Long Beach, Calif.	556.07	741.42
1273	10/26/49	Cal.-Metals Corp. Torrance, Calif.	Cal.-Metals Corp., Pier A, Berth 4, Long Beach, Calif.	623.98	834.39