

ORIGINAL

Decision No. 51623

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations,)
practices, rates, charges, con-)
tracts and tariffs of BLANCHARD)
TRUCKING SERVICE, INC., a corpor-)
ation, and ELMER A. PADULA, dba)
PADULA LUMBER COMPANY.)

Case No. 5597

Newell Rawles of Burke & Rawles, for E. A. Padula,
dba Padula Lumber Company, and Blanchard Truck-
ing Service, Inc., respondents.
Mary Moran Pajalich, for the Field Section of the
Transportation Division of the Commission.

O P I N I O N

On November 30, 1954, the Commission on its own motion issued its order herein instituting an investigation into the operations, practices, rates, charges, contracts and tariffs of Blanchard Trucking Service, Inc., and Elmer A. Padula, doing business as Padula Lumber Company, for the following purposes:

- "1. To determine whether or not Blanchard Trucking Service, Inc., is a device or means by which Elmer A. Padula obtains or has obtained transportation of property between points within this State, and services in connection therewith, at rates less than the minimum rates prescribed by this Commission in Minimum Rate Tariff No. 2.
- "2. To determine whether respondents or either of them should be ordered forthwith to cease and desist from the use of any device or means by which Elmer A. Padula obtains such transportation at less than the minimum rates so prescribed as aforesaid.
- "3. To determine whether or not Blanchard Trucking Service, Inc., is a highway carrier within the meaning of the Highway Carriers' Act.
- "4. To determine whether the operating authority of Blanchard Trucking Service, Inc., should be canceled or revoked.

"5. To enter any other order or orders that may be appropriate in the lawful exercise of the Commission's jurisdiction in the premises."

A public hearing was held before Examiner Wilson E. Cline at Ukiah on April 7, 1955. The matter was taken under submission at the close of the hearing.

The evidence adduced at the hearing shows that Elmer A. Padula and Lorraine Padula, his wife, are the owners of a lumber mill operated under the name of E. A. Padula Lumber Company, and that they are engaged in the lumber business under this name.

Elmer A. Padula and J. G. Blanchard formed a corporation named Blanchard Trucking Service, Inc., to engage in the business of hauling lumber. When the corporation was originally formed Elmer A. Padula owned 55 per cent of the stock, but in May or June of 1953 he purchased the balance of the stock from Blanchard.

Elmer A. Padula, George Roberts and Ray Padula are the directors of Blanchard Trucking Service, Inc. The officers of the corporation are Elmer Padula, President; Raymond Padula, Vice President; and Jean Padula, Secretary-Treasurer. The assets of the corporation consist of one flat bed or stake truck, office equipment and the bank deposit. The Commission takes official notice of the fact that on January 7, 1953, the Commission issued Radial Highway Common Carrier Permit No. 23-1062 to Blanchard Trucking Service, Inc.

The one truck which is owned by the Blanchard Trucking Service, Inc., is not suitable for hauling lumber. An associate transportation representative for the field division prepared a summary of the shipping documents of the Blanchard Trucking Service, Inc., for the period January 10, through March 27, 1954, which was introduced into evidence as Exhibit No. 3. Exhibit No. 3 and the recapitulation introduced into evidence as Exhibit No. 4 show that all the lumber handled by Blanchard Trucking Service, Inc., during the period covered by these exhibits was hauled by subhaulers.

A large portion of the services performed by Blanchard Trucking Service, Inc., has been the arranging for the subhauling of lumber for E. A. Padula Lumber Company between points within the State of California. Blanchard Trucking Service, Inc., has also arranged to have lumber subhauled for customers who have purchased lumber from E. A. Padula Lumber Company. In one instance in October or November of 1954 a shipment of alfalfa hay was handled by Blanchard Trucking Service, Inc.

The parties have stipulated that the charges made by Blanchard Trucking Service, Inc., to E. A. Padula Lumber Company were at the level of the minimum rates established by this Commission. Blanchard Trucking Service, Inc., in turn has received an average commission of 8 to 12 per cent from the subhaulers who performed the actual transportation service. The associate transportation field representative testified that during the course of a conversation with Mr. Padula relative to the use of the trucking business as an adjunct to his lumber business, Mr. Padula stated, "If it wasn't for Blanchard Trucking Company I wouldn't be able to sell any lumber."

Conclusion

The Commission hereby finds that Blanchard Trucking Service, Inc., is a highway carrier within the meaning of the Highway Carriers' Act.

The Commission further finds that Blanchard Trucking Service, Inc., and Elmer A. Padula are the alter ego of each other and that the said Elmer A. Padula completely dominates and controls said corporation. In determining whether Blanchard Trucking Service, Inc., is a device or means by which Elmer A. Padula obtains transportation for property at less than the minimum rates or charges, the Commission under the facts and circumstances appearing in the record herein may and will disregard the corporate entity of Blanchard

Trucking Service, Inc. The Commission hereby concludes and finds that Blanchard Trucking Service, Inc., is a device and means by which Elmer A. Padula obtains and has obtained transportation of property between points within the State of California at rates less than the minimum rates prescribed by this Commission. Elmer A. Padula should and will be ordered to cease and desist from the use of such device and means of obtaining transportation for property between points within California at less than minimum rates. The operating authority heretofore granted to Blanchard Trucking Service, Inc., by this Commission should and will be canceled and revoked.

O R D E R

A public hearing having been held in the above-entitled case, the matter having been submitted, the Commission being fully advised in the premises and having made its findings pertaining thereto, and the matter now being ready for decision,

IT IS HEREBY ORDERED that:

1. Elmer A. Padula cease and desist from using Blanchard Trucking Service, Inc., as a device and means of obtaining transportation for property between points within California at less than the minimum rates established by this Commission; and
2. The operating authority granted to Blanchard Trucking Service, Inc., by this Commission through Radial Highway Common Carrier Permit No. 23-1062, issued January 7, 1953, be and the same

is hereby canceled and revoked as of the effective date of this order:

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th day of June, 1955

E. Mitchell
President

Justin J. Cramer

Paul L. ...

...

...
Commissioners