

ORIGINALDecision No. 55028

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the operations, rates,)
and practices of DORAS NOORDMAN.)

Case No. 5891

Doras Noordman, in propria persona.
Hector Anninos, for the Commission staff.O P I N I O N

This proceeding was instituted, upon the Commission's own motion, by service of an order of investigation upon the respondent, Doras Noordman, on February 8, 1957, to determine whether respondent in the operation of a business as a Radial Highway Common Carrier,

(1) Has acted in violation of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2;

(2) Has acted in violation of the Public Utilities Code by failing to adhere to Item 250-A of Minimum Rate Tariff No. 2 in failing to collect freight charges within the period set forth therein;

(3) Has acted in violation of the Public Utilities Code by failing to adhere to Item 255-C of Minimum Rate Tariff No. 2 in failing to issue to the shipper a shipping document bearing the prescribed information.

A public hearing was held in Los Angeles on April 16, 1957, before Examiner Kent C. Rogers. Oral and documentary evidence having been adduced and the matter having been submitted for decision,

the Commission makes the following findings of fact and conclusions of law:

That respondent, Doras Noordman, at all times herein mentioned was, and now is, the holder of Radial Highway Common Carrier Permit No. 19-12712 issued by this Commission on March 29, 1941; that respondent has been served with a copy of Minimum Rate Tariff No. 2 (formerly Highway Carriers' Tariff No. 2), Distance Table No. 3 and Distance Table No. 4 and pertinent supplements and amendments thereto and at all times set forth hereinafter knew or should have known the contents of said tariffs and distance tables; that respondent transported 10 hereinafter specified shipments of hay bales from seven consignors to one consignee, Woodruff Hay Company in Bellflower, California; that all of said shipments originated in the North Kern Territory (Wasco, Buttonwillow, Shafter, McFarland or Lerdo); that in each instance the freight charges were paid by the consignee, Woodruff Hay Company; that the 10 shipments are reflected on respondent's freight bills Nos. 1042, 1043, 1045, 1055, 1056, 1060, 1063, 1068, 1069 and 1083 (Exhibits 2 through 11 herein); that respondent prepares only one copy, which he keeps, of each freight bill and such procedure was followed with reference to each of the above listed shipments; that after each of said shipments was picked up by respondent it was weighed and a public weighmaster's certificate received by respondent; that each such certificate shows only the date the shipment was weighed, the weight of the shipment, the signature of the weighmaster and his official seal; that each shipment was delivered to Woodruff Hay Company in Bellflower on the date of the freight bill or the following day; that at the time of delivery the consignee was given the weighmaster's certificate and no other document; that no copy of the freight bill or any other

document with reference to any of said shipments, other than the weighmaster's certificate, was ever given by respondent to the consignee; that for a shipment delivered on April 6, 1956, the consignee paid the freight charges to respondent on April 20, 1956; that for a shipment delivered on May 3, 1956, the consignee paid the freight charges to respondent on May 18, 1956; and that for a shipment delivered on June 2, 1956, the consignee paid the respondent on June 18, 1956.

The evidence further shows that respondent undercharged for the transportation services shown on the following numbered freight bills (Exhibits 2 to 11 inclusive) amounts as follows:

<u>Date</u>	<u>Freight Bill No.</u>	<u>Amount Charged and Collected by Respondent</u>	<u>Correct Total Charges*</u>	<u>Amount Under-charged***</u>
3-20-56	1042	\$151.98	\$171.61	\$19.63
3-29-56	1043	160.01	180.68	20.67
4--6-56	1045	153.79	173.65	19.86
4-24-56	1055	138.18	156.04	17.86
4-25-56	1056	145.42	164.20	18.78
4-30-56	1060	138.66	156.57	17.91
5--3-56	1063	159.47	180.08	20.61
5--9-56	1068	149.70	169.04	19.34
5-10-56	1069	160.14	180.83	20.69
6--2-56	1083	156.33	179.89	23.56

* As per Minimum Rate Tariff No. 2, Item 658-H and Supplements 28 and 30 thereto.

*** The record shows that the total charges collected included the 3% Federal transportation tax and the amount of undercharges should be increased by the amount of the transportation tax in each instance.

On June 21, 1955, the respondent was advised by letter of the proper rates he should charge for the transportation of baled hay and to collect specified undercharges not including those set forth herein (Exhibit No. 16). On July 13, 1955, the respondent advised the Commission, by letter, that he had collected the specified undercharges (Exhibit No. 17).

The Commission having considered the evidence of record and having found facts as hereinabove set forth, concludes that Doras Noordman has violated the provisions of Minimum Rate Tariff No. 2, particularly Item 250-A, and Section 3737 of the Public Utilities Code, in that he failed to present freight bills to the shipper within seven calendar days from the first 12 o'clock midnight following delivery of the freight, excluding Sundays and holidays; in that he received a lesser compensation for the transportation of freight than the applicable charges prescribed in Minimum Rate Tariff No. 2, in violation of Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code; and in that he failed to issue shipping documents containing the information required by Item 255-C of Minimum Rate Tariff No. 2, in violation of Section 3737 of the Public Utilities Code.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises, and having made findings and conclusions as set forth above,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 19-12712 issued to Doras Noordman be and the same hereby is suspended for a period of not less than 10 days beginning at 12:01 a.m. on the Monday following the effective date of this order, provided, further, that the suspension shall continue in effect beyond such 10-day period unless and until, upon further order of this Commission, the suspension be set aside and respondent's permit restored upon a satisfactory showing made to this Commission in writing that respondent

Doras Noordman has: (a) collected, or has taken appropriate action or measures to collect, all the undercharges as hereinabove set forth; and (b) commenced an audit of his transportation operations for a period of three years prior to the effective date of this order and within thirty days after the completion of said audit, but not later than ninety days after the effective date of this order, has collected or has taken appropriate steps to collect all undercharges arising out of his said transportation operations during said three-year period.

(2) That respondent Doras Noordman shall henceforth issue shipping documents in strict conformance with Item 255 Series of Minimum Rate Tariff No. 2.

(3) That respondent Doras Noordman shall henceforth comply with the provisions of Item 250 Series of Minimum Rate Tariff No. 2.

(4) That upon Doras Noordman's failure to have his permit No. 19-12712 restored in the manner set forth in paragraph (1) hereof, within ninety days of the effective date of this order, said permit is hereby revoked and cancelled effective ninety days after the effective date of this order.

The Secretary is ordered to cause service of this order to be made upon respondent Doras Noordman.

The effective date of this order shall be twenty days after service thereof on respondent.

Dated at San Francisco, California, this 21st day of May, 1957.

[Signature]
President

[Signature]
Secretary

[Signature]
Commissioner

[Signature]
Commissioner

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Commissioners