

**ORIGINAL**

Decision No. 55078

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own )  
 motion into the operations, rates, and )  
 practices of SAM GUSINOW, doing busi- )  
 ness as G. & G. Trucking Co. )

Case No. 5872

Wm. C. Bricca for California Public Utilities  
 Commission.

Turcotte & Goldsmith, by Jack O. Goldsmith,  
 for respondent Sam Gusinow.

O P I N I O N

The Commission instituted an investigation on its own motion into the operations, rates, and practices of Sam Gusinow, doing business as G. & G. Trucking Co., hereinafter termed respondent, for the purpose of determining whether respondent 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, and/or whether respondent has acted in violation of the Public Utilities Code by failing to adhere to other provisions and requirements of Minimum Rate Tariff No. 2 in the transportation of property including, but not limited to, proper consolidation of shipments under Items 60-B and 170-I, shipping document requirements under Item 255-C, and failure to collect charges under Item 250-A, particularly in the transportation of property as shown in respondent's freight bills numbers 7322-3, 7460 MB and 7476 MB.

A public hearing was held on February 27, 1957 in Los Angeles before Examiner Mark V. Chiosa. Oral and documentary evidence having been adduced, the matter having been submitted for decision, the Commission makes the following findings of fact and conclusions of law:

1. That respondent Sam Gusinow, at all times hereinafter mentioned, was and now is the holder of Radial Highway Common Carrier permit No. 19-28492 and Contract Carrier permit No. 19-41834 issued to him by this Commission on July 15, 1953; that respondent has been served with a copy of Minimum Rate Tariff No. 2 and Distance Table No. 4, and at all times hereinafter mentioned, knew or should have known the contents of said tariff and distance table.

2. That on July 2, 1956, respondent transported a shipment (Freight Bill No. 7322-3, Exhibit No. 2) consisting of 14 boxes of strip loins (104 pieces) weighing 1,459 pounds, from John Sawyer Packing Co., shipper, of Los Angeles, to Luce & Co., consignee, of San Francisco, and charged for said shipment \$16.05 at the rate of \$1.10 per 100 pounds, plus \$3.00 surcharge, or a total of \$19.05, exclusive of transportation tax; that the correct rate for said shipment was \$2.09 per 100 pounds<sup>1/</sup> or \$30.49, plus \$3.05 surcharge<sup>2/</sup>, or a total of \$33.54, exclusive of transportation tax; that the undercharge on said shipment was \$14.99; that said shipment incorrectly described the commodity as "strip loins" whereas the correct description is "Meats, fresh, N.O.I.B.N., in part carcasses."<sup>3/</sup>

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<sup>1/</sup> Minimum Rate Tariff No. 2. Item No. 510-J.

<sup>2/</sup> Minimum Rate Tariff No. 2. Supp. No. 30. Paragraph (b) 2.

<sup>3/</sup> Cal. P.U.C., W.C. No. 8. Item 32125.

3. That on August 22, 1956, Ranchers Meat Co., of Los Angeles, California, tendered to respondent three shipments under separate bills of lading for which respondent billed Ranchers Meat Co. as follows (Freight Bill No. 7460 MB, Exhibit No. 4):

<u>CONSIGNEE</u>	<u>PIECES</u>	<u>DESCRIPTION</u>	<u>WEIGHT</u>	<u>RATE</u>	<u>FREIGHT</u>
Various	47	RIBS ON DEL TAG #7460	1526	SDC	3.00
Oakland &	112	BXS & RIBS ON DEL TAG #7460-1	6263	"	5.00
San Francisco, California	170	RIBS ON DEL TAG #7460-4	5190	"	5.00
			12979	1.10	<u>142.77</u>
					<u>155.77</u>
			SURCHARGE	8 %	<u>12.46</u>
					<u>168.53</u>
				Tax	5.06
				Prepaid	173.59

that said three shipments were prepaid and delivered as a split delivery, the same day from the same truck, to three different consignees, one in Oakland, and two in San Francisco; that respondent consolidated the said shipments under one master bill of lading as a split delivery shipment although at the time of or prior to the tender of the shipments respondent was not furnished with written instructions in accordance with the provision and requirement of Minimum Rate Tariff No. 2, Item No. 170-I(d);<sup>u/</sup> That the correct rates and charges for said shipments are as follows:

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<sup>u/</sup> Said Item No. 170-I(d) provides as follows: "(d) For each split delivery shipment a single bill of lading or other shipping document shall be issued; and at the time of or prior to the tender of the shipment the carrier shall be furnished with written instructions showing the name of each consignee, the point or points of destination and the description and weight of property in each component part of such shipment.

<u>BILL OF LADING DATE AND CONSIGNEE</u>	<u>NO. OF PACKAGES</u>	<u>DESCRIPTION OF COMMODITY</u>	<u>WEIGHT IN POUNDS</u>	<u>RATE IN CENTS PER 100 POUNDS</u>	<u>CHARGES</u>
August 22, 1956 Holly Meat Co. 2736 Magnolia Avenue Oakland, Calif.	47 Pcs.	Meats, fresh, N.O.I.B.N., in part carcasses.	1,526	209 10% Surcharge	\$ 31.89 3.19 <u>\$ 35.08</u>
August 22, 1956 Luce & Co. 300 Kansas Street San Francisco, Calif.	112 Pcs. & Bxs.	Meats, fresh, N.O.I.B.N., in part carcasses.	6,263	136 10% Surcharge	\$ 85.18 8.52 <u>\$ 93.70</u>
August 22, 1956 Del Monte Meat Co. 751 Howard Street San Francisco	170 Pcs.	Meats, fresh, N.O.I.B.N., in part carcasses.	5,190	136 10% Surcharge	\$ 70.58 7.06 <u>\$ 77.64</u>

that the correct total charges for said three shipments is \$206.42, exclusive of transportation tax; that respondent undercharged, by reason of the unauthorized consolidation, the sum of \$37.89, exclusive of transportation tax; that respondent incorrectly described the commodity as "ribs" whereas the correct description is "Meats, fresh, N.O.I.B.N., in part carcasses."

4. That on August 29, 1956, Ranchers Meat Co. of Los Angeles, California, tendered to respondent three shipments under separate bills of lading, for which respondent billed Ranchers Meat Co. as follows (Freight Bill No. 7476 MB, Exhibit No. 3):

<u>CONSIGNEE</u>	<u>PIECES</u>	<u>DESCRIPTION</u>	<u>WEIGHT</u>	<u>RATE</u>	<u>FREIGHT</u>
Various	2	BXS MEAT ON DEL TAG 7476-3	203	SDC	1.30
San Francisco,	19	" " " " " 7476-4	1108 $\frac{1}{2}$	"	3.00
California	60	AA RIBS " " " 7476-5	1915	"	3.00
			<u>3226<math>\frac{1}{2}</math></u>		
		AS	4000	1.36	<u>54.40</u>
					<u>61.70</u>
			SURCHARGE	10%	<u>6.17</u>
					<u>67.87</u>
				Tax	2.04
				Prepaid	69.91

that said three shipments were prepaid and delivered, as a split delivery, the same day from the same truck, to three different consignees in San Francisco; that respondent consolidated the said shipments under one master bill of lading as a split delivery shipment although at the time of or prior to the tender of the shipments respondent was not furnished with written instructions in accordance with provisions and requirement of Minimum Rate Tariff No. 2, Item No. 170-I(d); that the correct rates and charges for said shipments are as follows:

<u>BILL OF LADING DATE AND CONSIGNEE</u>	<u>NO. OF PACKAGES</u>	<u>DESCRIPTION OF COMMODITY</u>	<u>WEIGHT IN POUNDS</u>	<u>RATE IN CENTS PER 100 POUNDS</u>	<u>CHARGES</u>
August 29, 1956 Bob Ostrow 3620-19 Street, San Francisco	2 Pcs.	Meats, fresh, N.O.I.B.N., in part carcasses.	203	209 10% Surcharge	\$ 4.24 <u>.42</u> \$ 4.66
August 28, 1956 Luce & Co. 300 Kansas Street San Francisco	19 Pcs.	Meats, fresh, N.O.I.B.N., in part carcasses. Meats, cured, N.O.I.B.N., smoked.	3,018 5½	209 146 10% Surcharge	\$ 23.05 <u>.08</u> \$ 23.13 <u>2.31</u> \$ 25.44
August 29, 1956 Patek & Ecklon 934 Larkin Street San Francisco	60 Pcs.	Meats, fresh, N.O.I.B.N., in part carcasses.	1,915	209 10% Surcharge	\$ 40.02 <u>4.00</u> \$ <u>44.02</u>

that the correct total charges for said three shipments is \$74.12, exclusive of transportation tax; that respondent undercharged, by reason of the unauthorized consolidation, the sum of \$6.25, exclusive of transportation tax; that respondent incorrectly described the commodities as "Meat" and as "Ribs" whereas the correct description is "Meats, fresh, N.O.I.B.N., in part carcasses."

Respondent contends that, as to the rates and charges applied and collected by him as set forth in paragraphs 3. and 4. above, he had authority to consolidate and combine said shipments pursuant to Minimum Rate Tariff No. 2, Item No. 60-B and Item No. 170-I(d) by reason of the following letter which he received from Ranchers Meat Co. several months prior to the date of said deliveries:

April 11, 1956

G & G Trucking Co.  
423 So. Hewitt St.  
Los Angeles 13, California

Attention Sam Gusinow:

Dear Sam:

Thanks so very much for the information you gave us and the service on our pick ups. We hope that we will be shipping extensively up north and would like to have your co-operation in making out a master bill at any time that we have shipments going on one truck to various destinations in San Francisco and Oakland.

If you can give us information on shipping rates or companies that deliver in Arizona we will certainly appreciate it.

Thanks again for your courtesy and co-operation.

Sincerely,

/s/ Pauline Katz

Ranchers Meat Co.

IR/plc

Concerning the undercharges as set forth in paragraph 2. hereinabove respondent admits error due to inadvertence. The evidence of record shows that sometime in September of 1956 respondent re-billed John Sawyer Packing Co. at the correct rate of \$2.09 per

hundred pounds and collected undercharges of \$14.93 which included transportation tax.

Respondent readily admitted the undercharge with reference to the John Sawyer Packing Co. shipment and took steps to collect the proper charge. As to the consolidation of the shipments described in paragraphs 3. and 4., respondent testified that he believed that the letter of April 11, 1956, (supra), was adequate authority under said Items Nos. 60-B and 170-I(d) of the Minimum Rate Tariff No. 2, to consolidate daily shipments for the Ranchers Meat Co. It is clear, however, that the letter fails to satisfy the tariff requirements which must be met in order to obtain the benefits of the lower rates provided for the aggregate weight of composite shipments. The tariff rules in question are not so difficult that they defy understanding but rather they set forth simply the procedure that must be followed in the case of multiple lot shipments. Intentional or unintentional deviations tend to undermine the rate structure and the very purpose of sound regulation. As stated in re Investigation of Russ DiSalvo (Decision No. 54499 in Case No. 5858), "It is incumbent upon this Commission, therefore, to impress upon those within the industry, who have permitted themselves to fall into a state of lethargy or indifference, that they will have to comply strictly with the statutory provisions and the Commission's rules, regulations and orders."

The Commission having considered the evidence and having found as hereinabove set forth finds and concludes that Sam Gusinow, respondent herein, in the performance of the transportation services for John Sawyer Packing Co. and for Ranchers Meat Co. as hereinabove

set forth, has violated the provisions of Minimum Rate Tariff No. 2, particularly Items Nos. 60-B, 170-I(d), 250-A and 255-C,1,(e). The Commission will enter the following order.

O R D E R

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises, having found facts as above set forth, and good cause appearing,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 19-28492 and Contract Carrier Permit No. 19-41834 issued to Sam Gusinow be, and they hereby are, suspended for a period of one day commencing at 12:01 a.m. on the first Monday following the effective date hereof. ✓

(2) That Sam Gusinow, doing business as G. & G. Trucking Co., within ten days after the effective date of this order, shall assess and collect, or take appropriate action to collect, from Ranchers Meat Co. of 1301 East First Street, Los Angeles, California, the difference between the amount collected on the shipments as set forth in paragraphs 3 and 4 of the opinion herein, to wit: the sums of \$37.89 and \$6.25, respectively, plus transportation tax.

(3) That Sam Gusinow, doing business as G. & G. Trucking Co., shall forthwith cease and desist from assessing or collecting less than the applicable minimum rates and charges prescribed by the Commission tariffs for any transportation service which the respondent is authorized to perform.



IT IS FURTHER ORDERED that the Secretary of this Commission is directed to cause personal service of this order to be made upon the respondent Sam Gusinow and that this order shall be effective twenty days after the date of such service.

Dated at San Francisco, California, this 4<sup>th</sup> day of JUNE, 1957.

(Handwritten circle around the date "4<sup>th</sup> JUNE, 1957.")

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners