

ORIGINALDecision No. 57745

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates, and practices of JOHN)
 SANCHEZ, doing business as)
 JOHN SANCHEZ TRUCKING.)

Case No. 6093

In the Matter of the Application)
 of JOHN SANCHEZ, doing business)
 as SANCHEZ TRUCKING, for a highway)
 contract carrier permit between)
 Los Angeles and Bay Area cities,)
 as well as Sacramento, Appl.)
 No. 7-3395, File No. T-2,373.)

Application No. 40463

Edwin H. Griffiths, for respondent and applicant.
Elmer Sjostrom, for the Commission staff.

O P I N I O N

This Commission, on April 29, 1958, issued an order of investigation into the operations, rates, and practices of John Sanchez, an individual, doing business as John Sanchez Trucking, who is engaged in the business of transporting property over the highway as a radial highway common carrier. The purpose of this investigation is to determine whether the respondent has acted in violation of Sections 3664 and 3667 of the Public Utilities Code by charging, demanding, collecting and receiving a lesser compensation for the transportation of property than the applicable charges prescribed by the Commission's Minimum Rate Tariff No. 2 and supplements.

Public hearing was held on July 17, 1958 before Examiner Rowe, at which time evidence was adduced and, at the request of respondent, the matter was continued to November 6, 1958 for further hearing.

On August 27, 1958, said John Sanchez filed his application requesting the issuance of a highway contract carrier permit. This

application was set for hearing also on November 6, 1958. By stipulation of applicant with the Commission staff, this application was consolidated with the investigation matter for hearing and all the evidence at the prior hearing was made a part of the record in Application No. 40463. At the hearing held November 6, 1958, further evidence was presented and both matters were submitted for decision.

Representatives of the Commission's Rate Branch and the Field Section testified that undercharges had been made by respondent in twenty-three instances and all involving one shipper of canned goods. These undercharges all occurred during the spring and summer months of 1957 and have now all been collected from this shipper who, when advised of the situation, paid the difference to the carrier. Subsequently, canned goods have been carried for this shipper at proper rates. Respondent testified that his books and records have been studied and this study discloses no other undercharges. From the evidence of record, the Commission finds that respondent violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a lesser compensation for the transportation of canned goods than the applicable minimum rates prescribed by the Commission's Minimum Rate Tariff No. 2, resulting in total undercharges amounting to \$846.32.

Based upon the foregoing findings of fact, respondent's operating right under his Radial Highway Common Carrier Permit No. 7-1601 will be suspended for a period of two days. John Sanchez as applicant in Application No. 40463 has the necessary experience and financial resources and ability to carry on an operation as a highway contract carrier. This permit will be limited to the commodities covered by the application and his radial highway common carrier permit will be restricted by excluding these commodities in view of the statutory prohibition against operations both as a contract and

a common carrier of the same commodities between the same points (Section 3542, Public Utilities Code). In view of the fact that respondent's acts do not appear to be willful, the Commission finds that applicant, John Sanchez, can in the future be expected to not violate applicable tariffs and Commission rules and regulations.

O R D E R

Public hearings having been held and based upon the above findings of fact,

IT IS ORDERED:

1. That Radial Highway Common Carrier Permit No. 7-1601 issued to John Sanchez is hereby suspended for two consecutive days starting at 12:01 a.m. on the second Monday following the effective date of this order, and respondent shall not under said permit transport luggage or new office furniture.

2. That John Sanchez shall post at his terminal and station facilities used for receiving property from the public for transportation, not less than five days prior to the beginning of the suspension period, a notice to the public stating that his radial highway common carrier permit has been suspended by the Commission for a period of two days.

3. That, upon the filing by applicant Sanchez of evidence of the required insurance protection, a permit as a highway contract carrier shall be issued by the Secretary of the Commission. ✓
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4. The Secretary is further directed to cause personal service of this order to be made upon John Sanchez and this order

shall be effective twenty days after the completion of such service upon respondent.

Dated at San Francisco, California, this 16th day of December, 1958.

E. Lyn Fox
 President

Robert H. ...

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Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.