

Decision No. 62095**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
 motion into the operations, rates and
 practices of Harold S. Manselian,
 Robert S. Manselian, and John A.
 Manselian, copartners, doing business
 as Narty Transfer and as Farmers
 Lumber & Supply Company; Harold S.
 Manselian, doing business as Flasco
 Lumber Sales; Vincent Ganduglia, doing
 business as Vincent Ganduglia Trucking;
 and Bruce Guynes.

Case No. 7022

A. R. Kerstetter, for Harold S. Manselian,
Robert S. Manselian and John A. Manselian.
Bruce Guynes, pro se.
Vincent Ganduglia, pro se.
Franklin G. Campbell, for the Commission staff.

O P I N I O N

This investigation was instituted on November 22, 1960.
 Public hearing was held before Examiner Martin J. Porter in Fresno
 on March 7, 1961, and the matter submitted.

The purpose of the investigation was to determine whether
 the partners Harold S. Manselian, Robert S. Manselian, and John A.
 Manselian are in violation of Section 3669 of the Public Utilities
 Code by using a device to obtain transportation at rates less than
 minimum rates or charges established by the Commission; whether
 Vincent Ganduglia and Bruce Guynes, or either of them, are in viola-
 tion of the Sections 3664 and 3667 of the Public Utilities Code by
 demanding, collecting or receiving a lesser compensation for the
 transportation of property than the applicable rates prescribed in
 Minimum Rate Tariffs Nos. 2 and 10 and whether Vincent Ganduglia and
 Bruce Guynes, or either of them, violated Section 3668 of the Public
 Utilities Code by the means of a device which suffered or permitted
 persons to obtain transportation within this state at rates less than

the minimum rates established or approved by the Commission.

Facts

Evidence was presented by the Commission staff that Radial Highway Common Carrier Permit No. 10-8577 has been issued to Harold S. Manselian, Robert S. Manselian and John A. Manselian, doing business as Narty Transfer.

Narty Transfer's entire operation for the first quarter of 1960, consisting of 26 shipments, was reviewed by the Field Section. Of these shipments Vincent Ganduglia Trucking transported 21 and Bruce Guynes 5. These shipments were identified in the order instituting the investigation and the records for said shipments were received in evidence.

Farmers Lumber & Supply Company is a partnership consisting of the same three individuals engaged in the retail sale of lumber and other building supplies.

Flasco Lumber Sales is solely owned by Harold S. Manselian and is engaged in obtaining lumber and other building supplies for its sole customer, Farmers Lumber & Supply Company, in carload lots.

Flasco Lumber Sales then engages Narty Transfer to transport the supplies to Farmers Lumber & Supply Company, but the actual carriage of the property is done by Vincent Ganduglia Trucking and by Bruce Guynes, both permitted carriers, for which carriage they receive compensation at rates which are less than those provided by Minimum Rate Tariffs Nos. 2 and 10 for a prime carrier.

Narty Transfer maintains no terminals, its equipment consists of one 1954 Chevrolet bobtail truck which is used exclusively by Farmers Lumber & Supply Company for making local deliveries. All operating expenses are the responsibility of Farmers Lumber & Supply Company and Narty Transfer receives no compensation for the use of the equipment.

It was stipulated that the respondents had been served with minimum rate tariffs, distance table, and modifications and

supplements thereto, applicable to the transportation herein involved.

The respondents did not testify or present evidence.

Findings and Conclusions

Based upon the evidence of record, we find and conclude:

1. That Narty Transfer is a device whereby Farmers Lumber & Supply Company has obtained transportation for property at less than the minimum rates or charges established by this Commission in violation of Section 3668 of the Public Utilities Code.

2. That Vincent Ganduglia and Bruce Guynes are in fact prime carriers for the transportation in question.

3. That Harold S. Manselian, Robert S. Manselian, and John A. Manselian, through the purported use of their radial highway common carrier permit, have violated Section 3668 of the Public Utilities Code by obtaining transportation for property at less than the minimum rates or charges established by this Commission.

O R D E R

Public hearing having been held and based on the evidence therein adduced,

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 10-8557 issued to Harold S. Manselian, Robert S. Manselian and John A. Manselian, doing business as Narty Transfer, is hereby revoked; provided, however, that said revocation is hereby deferred pending further order of this Commission. If no further order of this Commission is issued affecting said revocation within one year from the date of issuance of this decision, the revocation shall be automatically vacated.

2. That Harold S. Manselian, Robert S. Manselian and John A. Manselian, copartners, doing business as Farmers Lumber & Supply Company and Narty Transfer, shall review their records of all transportation purchased by the copartnership, doing business as Farmers

Lumber & Supply Company, between January 1, 1959 and the effective date of this order, in which such copartnership, doing business as Narty Transfer, was ostensible prime carrier and the furnishers of such transportation were ostensible subhaulers. Harold S. Manselian, Robert S. Manselian and John A. Manselian shall then pay to such furnishers of transportation the difference between the lawful minimum rate and charge applicable to such transportation and the amount previously paid to such furnishers of transportation ostensibly as subhaulers.

3. Vincent Ganduglia and Bruce Guynes shall review their records of all transportation they performed ostensibly as subhaulers where Harold S. Manselian, Robert S. Manselian and John A. Manselian, copartners, doing business as Narty Transfer, were the prime carriers from January 1, 1959, until the effective date of this order, for the purpose of ascertaining the lawful minimum rate for said transportation based on the fact that they were prime carriers of said transportation.

4. Within ninety days after the effective date of this decision, Harold S. Manselian, Robert S. Manselian, John A. Manselian, Vincent Ganduglia and Bruce Guynes shall file with the Commission a report setting forth the lawful minimum rate for transportation and the amount paid Vincent Ganduglia and/or Bruce Guynes found after the examinations required by paragraphs 1 and 2.

5. Vincent Ganduglia and Bruce Guynes are hereby directed to take such action, including legal action, as may be necessary to collect the difference between the lawful minimum rate and the amount they received for said transportation as disclosed by the examination required by paragraph 2.

6. In the event charges to be collected as provided in paragraph 4 of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, Vincent

Ganduglia and/or Bruce Guynes shall institute legal proceedings to effect collection and shall submit to the Commission, on the first Monday of each month, a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such; until such charges have been collected in full or until further order of this Commission.

7. On the effective date of this decision, the Secretary of the Commission is directed to cause to be amended Radial Highway Common Carrier Parmit No. 10-8577 issued to Harold S. Manselian, Robert S. Manselian and John A. Manselian, doing business as Narty Transfer, by inserting therein a restriction prohibiting them whenever they engage other carriers for the transportation of property of Flasco Lumber Sales and Farmers Lumber & Supply Company or of customers of Flasco Lumber Sales and Farmers Lumber & Supply Company, from paying such other carriers less than the minimum rates and charges established by the Commission for the transportation actually performed by such other carriers.

The Secretary of this Commission is directed to cause personal service of this order to be made upon Harold S. Manselian, Robert S. Manselian, John A. Manselian, Vincent Ganduglia and Bruce Guynes and this order shall be effective twenty days after the completion of such service upon respondents.

Dated at San Francisco, California, this 6th day of June, 1961.

Frederick B. Holbrook
President
George L. Grover
Frederick B. Holbrook
Commissioners