

ORIGINAL

Decision No. 64316

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations and practices of Neil Brouwer, Henry Kuiper, Alvin Kuiper, James E. Van Binsbergen, George Cissell, D. D. Street, and Richard C. Rietsma, relating to the transportation of property by motor vehicle over the highways of the State of California.

Case No. 7242

C. A. Pickwith, for Henry Kuiper, respondent.
George Cissell; James E. Van Binsbergen;
Richard C. Rietsma; D. D. Street; Alvin L. Kuiper; Neil A. Brouwer, for themselves; respondents.
Hugh N. Orr and George Kataoka, for the Commission staff.

O P I N I O N

On December 5, 1961, the Commission instituted its investigation into the operations and practices of the respondents for the purpose of determining whether the respondents are engaged in the transportation of property for compensation by motor vehicle on public highways without first having obtained from the Commission proper permits authorizing such operation as required by Section 3571 of the Public Utilities Code; and, further, whether respondents or any of them have participated in any device to provide transportation of property at less than the minimum rates or charges established or approved by the Commission in violation of Section 3668 or Section 3669 of the Public Utilities Code.

Pursuant to the order instituting investigation, public hearing was held before Examiner Martin J. Porter on April 3, 1962, at Los Angeles, on which date the matter was submitted.

The evidence shows, and we find, that respondents' method of operation is as follows: Alvin Kuiper purchases hay from various growers; the hay is picked up by Alvin Kuiper or the other respondents; if Alvin Kuiper does not give instructions as to the ultimate delivery point, the hay is brought into the hay lot of Sierdsma Hay Company, where it is held until a buyer is found by the Sierdsma Hay Company; when the buyer is found, the truck operator is instructed where to deliver the hay; after the hay is sold, Sierdsma Hay Company pays the respondents, who in turn pay the growers or Alvin Kuiper; Alvin Kuiper receives fifty cents per ton from the other respondents for locating and purchasing the hay; the respondents do not bargain with the ultimate purchaser of hay as to its price.

All but one of thirteen hay growers were interviewed by the field section representative, and all but one stated that, when dealing with Alvin Kuiper, they had believed he was either acting as a Sierdsma agent or was taking over the hay purchasing of Sierdsma Hay Company.

Only Neil Brouwer and Henry Kuiper allowed the field representative to inspect their records. We find that these records did not reflect who was the ultimate purchaser of the hay and that such information had to be secured from Sierdsma Hay Company.

From the evidence it is clear, and we find, that the respondents other than Alvin Kuiper contribute nothing to these transactions except the transportation of property; that Alvin Kuiper decides what type of hay to purchase and what price to pay the grower; and that Sierdsma Hay Company finds the buyer and sells the hay, paying to respondents some lesser amount than that paid by the ultimate purchasers.

We find that Richard C. Rietsma has a permit as a radial highway common carrier which was issued near the end of the period covered by the staff investigation; that D. D. Street, Alvin Kuiper, James E. Van Binsbergen and George Cissell have no permits; that

Henry Kuiper had a radial highway common carrier permit but it has been revoked for nonexercise; and that Neil Brouwer has a radial highway common carrier permit subject to revocation for nonexercise.

We further find that:

1. Respondents Richard C. Rietsma, D. D. Street, Henry Kuiper, James E. Van Binsbergen, George Cissell and Neil Brouwer are not in fact purchasers of the hay in question but are engaged in the transportation of property over the public highways for compensation.

2. At the time of the transportation in question, D. D. Street, Henry Kuiper, James E. Van Binsbergen and George Cissell did not have permits and were operating as radial highway common carriers in violation of Section 3571 of the Public Utilities Code.

3. Respondents Richard C. Rietsma and Neil Brouwer violated Section 3668 of the Public Utilities Code, by means of a device whereby shippers obtained transportation of property between points within this State at rates less than the minimum rates established by the Commission.

4. The evidence on this record fails to establish that Alvin Kuiper is engaged in the transportation of property over the public highways for compensation.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED that:

1. D. D. Street, Henry Kuiper, James E. Van Binsbergen and George Cissell cease and desist the transportation of property for compensation in violation of Section 3571 of the Public Utilities Code.

2. Radial Highway Common Carrier Permit No. 19-54132 issued to Richard C. Rietsma and Radial Highway Common Carrier Permit No. 19-40347 issued to Neil Brouwer are 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 vacated by further order of the Commission.

3. In light of the finding made as to respondent Alvin Kuiper the investigation is discontinued as to him.

The Secretary of the Commission is directed to cause personal service of this order to be made upon the respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 25th day of SEPTEMBER, 1962.

George G. Grover
President

[Signature]

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Frederic B. Halakoff
Commissioners