

ORIGINALDecision No. 655S7

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 LA)
 BRASCA, INC., a California)
 corporation.)

Case No. 7528

E. H. Griffiths, for respondent.
Elinore Charles, for the Commission staff.

O P I N I O N

On January 8, 1963, the Commission instituted its investigation into the operations, rates, charges and practices of Sam La Brasca, Inc.

Public hearing was held before Examiner Porter on February 27, 1963. The Commission staff presented its case; the respondent requested a continuance, alleging that a witness was unavailable on this date. The continuance was granted. On April 6, 1963, respondent informed the Commission that it now desired to submit the case on the record as it now stands.

The purpose of this investigation is to determine whether respondent, in violation of Sections 3664 and 3737 of the Public Utilities Code has charged, demanded or received a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2 and supplements thereto.

The staff selected a review period of October 6, 1961 through April 6, 1962, during which period approximately 200 shipments were transported. One hundred thirty shipments were

checked; 14 were selected and forwarded to the Rate Analysis Unit of the Commission and undercharges were found in each instance.

The evidence established that respondent had been served with Minimum Rate Tariff No. 2, Distance Table No. 4 and applicable supplements thereto.

It was stipulated that respondent has been issued Radial Highway Common Carrier Permit No. 34-1819 and Highway Contract Carrier Permit No. 34-3422.

Respondent offered no evidence.

Based upon the evidence we find that:

1. Respondent is engaged in the transportation of property over the public highways for compensation as a highway permit carrier.
2. Respondent assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 2, which resulted in undercharges as follows:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Charge Assessed or Collected by Respondent</u>	<u>Correct Charge</u>	<u>Undercharge</u>
A0194	12/28/61	\$235.08	\$264.69	\$ 29.61
A0220	1/30/62	95.65	130.78	34.13
A0216	1/30/62	281.52	505.92	224.40
A0273	3/ 7/62	281.52	505.92	224.40
A0320	4/ 6/62	216.24	252.96	36.72
A0251	10/18/61	283.56	293.01	9.45
A0158	11/10/61	283.02	292.45	9.43
A0159	11/13/61	268.56	277.51	8.95
A0184	12/11/61	259.32	267.96	8.64
A0163	11/16/61	282.34	306.34	24.00
A0172	11/27/61	289.00	315.00	26.00
A0212	1/24/62	298.18	350.90	52.72
A0242	2/21/62	332.86	363.05	30.19
A0227	2/ 6/62	202.30	226.79	24.46

Undercharges for these shipments amounted to \$743.10

3. Respondent violated Sections 3664 and 3737 of the Public Utilities Code by charging and collecting a compensation less than the minimum established by this Commission in Minimum Rate Tariff No. 2.

O R D E R

IT IS ORDERED that:

1. If on or before the twentieth day after the effective date of this order, respondent has not paid the fine referred to in paragraph 7 of this order, then Radial Highway Common Carrier Permit No. 34-1819 and Highway Contract Carrier Permit No. 34-2422 issued to Sam La Brasca, Inc., shall be suspended for five consecutive days starting at 12:01 a.m., on the second Monday following the twentieth day after said effective date. Respondent shall not, by leasing the equipment or other facilities used in operations under these permits for the period of suspension, or by any other device, directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. Respondent shall post at its 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 its radial highway common carrier permit and highway contract carrier permit have been suspended by the Commission for a period of five days. Within five days after such posting respondent shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. Respondent shall examine its records for the period from October 6, 1961, to the present time, for the purpose of ascertaining all undercharges that have occurred.

4. Within ninety days after the effective date of this order, respondent shall complete the examination of its records required by paragraph 3 of this order and shall file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, together with those found after the examination required by paragraph 3 of this order, and shall notify the Commission in writing upon the consummation of such collections.

6. In the event undercharges ordered to be collected by paragraph 5 of this order, or any part of such undercharges, remain uncollected one hundred twenty days after the effective date of this order, respondent shall institute legal proceedings to effect collection and shall file with the Commission, on the first Monday of each month thereafter, a report of the undercharges remaining to be collected and specifying the action taken to collect such undercharges, and the result of such action, until such undercharges have been collected in full or until further order of the Commission.

7. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$1,500 to this Commission on or before the twentieth day after the effective date of this order.

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

Dated at San Francisco, California, this 17th day of JUNE, 1963.

George F. Grover
President
Walter S. Mitchell
Wesley W. Rupp
Frederick B. Haloboff
William W. Bunnell
Commissioners