

ORIGINALDecision No. ~~69892~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
 own motion into the operations,
 rates and practices of FILBERT F.
 ROWLAND dba ROWLAND HAY COMPANY,
 relating to the transportation of
 property by motor vehicle over the
 highways of the State of California.

Case No. 7537

Filbert F. Rowland, in propria persona.

Robert C. Marks and Richard D. Lowe,
 for the Commission staff.

O P I N I O N

Decision No. 66066 dated September 24, 1963 concluded that respondent had violated Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code and ordered in ordering paragraph 2 that respondent pay a fine of \$3,000.

A petition for a writ of review of said decision was filed with the Supreme Court of this State and said petition was denied. Thereafter, this Commission fixed the effective date of Decision No. 66066 by an order dated May 19, 1964. The fine of \$3,000 was due and payable no later than July 15, 1964.

By an order dated May 4, 1965 the Commission reopened this proceeding for the limited purpose of receiving evidence to determine respondent's ability to pay said fine and to determine whether the decision should be modified or rescinded.

A public hearing was held before Examiner Gravelle in Los Angeles on August 18, 1965.

Respondent was exhaustively examined by counsel for the Commission staff with regard to his present financial condition,

employment, assets and liabilities, insurance, property interests and status as plaintiff or defendant in any legal proceedings.

Respondent is presently employed as a truck driver for Puente Readymix, Inc., his scale of pay is \$3.57 an hour and his average take-home pay is \$150 a week. He is the sole support of his wife and two daughters. All of his operating equipment was repossessed by C. C. Stafford Milling & Warehouse Co., Inc., and F. A. Rottaway and in addition he owes a balance of \$35,000 on said equipment. He also has debts in excess of \$14,000 resulting from his trucking operations. He is presently paying \$40 monthly to the Controller of the State of California on tax liability stemming from his business endeavor. Respondent testified that he is attempting to the best of his ability to meet all of his financial obligations but that he is unable to make any payment on the fine of \$3,000 at the present time.

A witness for the Commission staff testified that as of August 18, 1965 no part of the \$3,000 fine imposed by Decision No. 66066 had been paid. He also testified that on August 6, 1963, Radial Highway Common Carrier Permit No. 19-51829 which had been issued to respondent and was his sole operating authority, was revoked for failure to have adequate insurance on file.

The Commission has set forth in the decision in Case No. 7242, also issued today, its jurisdictional ability to rescind, alter or amend any of its previously issued orders or decisions. That same rationale has application to this proceeding and is hereby adopted.

After consideration the Commission finds that:

1. Filbert F. Rowland has failed to pay the fine of \$3,000 imposed by Decision No. 66066.

2. The operating authority of Filbert F. Rowland was revoked on August 6, 1963.

3. Filbert F. Rowland is financially unable to pay the fine of \$3,000 imposed by Decision No. 66066.

4. Filbert F. Rowland has violated the orders and decisions of this Commission by failing to maintain on file adequate liability insurance.

5. Filbert F. Rowland should be specifically informed of Section 3775 of the Public Utilities Code which makes the issuance of a permit discretionary where revocation has occurred pursuant to Section 3774.

6. No useful purpose would be served by further efforts to collect the fine of \$3,000 imposed upon Filbert F. Rowland by Decision No. 66066.

Based upon the foregoing findings of fact the Commission concludes that the fine of \$3,000 imposed by Decision No. 66066 should be rescinded and the revocation of respondent's operating authority should be ratified.

O R D E R

IT IS ORDERED that:

1. The fine imposed upon Filbert F. Rowland by ordering paragraph 2 of Decision No. 66066 is hereby rescinded.

2. The revocation of Filbert F. Rowland's Radial Highway Common Carrier Permit No. 19-51829 on August 6, 1963 is hereby ratified.

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 date of such personal service.

Dated at San Francisco, California, this 2nd day of November, 1965.

Frederick B. Schlohoff
President
John L. ...
George T. Trover
Augustus ...
William C. Brunst
Commissioners