

ORIGINAL

Decision No. 76657

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, charges and practices of
JOHN L. PARKER, doing business as
EMPIRE TRUCKING CO.; QUARRY
PRODUCTS, INC., a corporation;
and RONALD F. PUIM, doing business
as PUIM'S TRUCKING.

Case No. 8890
(Filed February 4, 1969)

Stanley T. Grydyk, for John Parker; Leland
F. Reaves, for Ronald Puim; William F.
Whiting, for Quarry Products; respondents.
William D. Figg-Hoblyn, Counsel, and George T.
Kataoka, for the Commission staff.

O P I N I O N

By its order dated February 4, 1969, the Commission instituted an investigation into the rates, charges and practices of John L. Parker, doing business as Empire Trucking Co., Quarry Products, Inc. and Ronald F. Puim, doing business as Puim's Trucking.

Public hearing was held before Examiner Porter on July 25, 1969 at San Francisco.

The Transportation Division examined the shipping documents of John L. Parker, a permitted carrier, for transportation performed between May 1, 1968 and July 31, 1968, inclusive. Quarry Products, Inc. is the shipper and Ronald F. Puim, a permitted carrier, was the subhauler for the transportation performed.

The staff presented evidence that transportation had been performed by John L. Parker as prime carrier upon the public highway. The prime carrier had charged the shipper 13 cents per

ton while the staff showed that a distance tonnage rate of 23 cents per ton should have been applied. Exhibit 3 shows an undercharge of \$7,099.04.

The staff also showed that John L. Parker paid Ronald F. Puim 95 percent of charges based on 10 cents per ton. Also, evidence was presented that Ronald F. Puim had paid to John L. Parker a 5 percent rebate for transportation performed during the months of May and June, 1968. As a result of underpayment and rebate John L. Parker owes Ronald F. Puim \$9,108.72 as shown on statement No. 1X, Exhibit 3.

Ronald F. Puim admitted making the rebate in order to hold the hauling job; also, he admitted the haul was partially on public highways but that he did not measure the distance to ascertain how far the trucks traversed the public highways.

It was stipulated that John L. Parker and Ronald F. Puim had each been served with the appropriate tariff and distance table.

The Commission finds that:

1. John L. Parker at the time of the transportation herein involved operated pursuant to radial highway common carrier and city carrier permits and that Ronald F. Puim operated pursuant to a highway contract carrier permit.^{1/}

2. John L. Parker and Ronald F. Puim were each served with the appropriate tariff and distance table.

3. John L. Parker charged less than the minimum rates for the transportation of property prescribed in Minimum Rate Tariff No. 7, Item 148, and failed to pay subhaulers 95 percent of the applicable charges as prescribed in Item 94, Minimum Rate Tariff No. 7.

^{1/} The City Carriers' Act was repealed by statute of 1968, effective November 13, 1968.

4. Ronald F. Puim charged John L. Parker a lesser compensation for the transportation of property than the applicable charges prescribed by Item 94 of Minimum Rate Tariff No. 7.

Based upon the foregoing findings of fact, the Commission concludes that John L. Parker violated Sections 3664, 3667, 3669 and 3737 of the Public Utilities Code and that Ronald F. Puim violated Sections 3664, 3667 and 3737 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. John L. Parker shall collect from Quarry Products, Inc. all undercharges for transportation performed between May 1, 1968 and July 31, 1968, as set forth in Exhibit 3.

2. John L. Parker shall pay Ronald F. Puim all sums due as underpayment, as shown in Exhibit 3.

3. John L. Parker and Ronald F. Puim shall take such action, including legal action, as may be necessary to collect the undercharges and underpayments, as set forth in Exhibit 3.

4. John L. Parker shall pay a fine to this Commission in the amount of \$354.95 based upon the 5 percent John L. Parker would have retained if he had charged the minimum rate.

5. Ronald F. Puim shall pay a fine to this Commission in the amount of \$9,108.72 based upon underpayment due Ronald F. Puim.

6. John L. Parker and Ronald F. Puim shall notify the Commission, in writing, within five days after the collection of any undercharges or underpayments. The notification shall specify

the amount collected and said amount shall be remitted with the notification to the Commission by respondent in full or partial payment of the fine imposed by paragraphs 4 and 5 of this order.

The Secretary of the Commission is directed to cause personal service of this order to be made upon John L. Parker, Quarry Products, Inc. and Ronald F. Puim. The effective date of this order, as to each respondent, shall be twenty days after the completion of such service on such respondent.

Dated at San Francisco, California, this 13th day of JANUARY, 19 .

William J. Lyons, Jr.
President

Quarry Products, Inc.

Ronald F. Puim

Vernon L. Stinger
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.