

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of)	FORMAL COMPLAINT NO. FC-1144
)	
Herman Bros., Inc., a corporation)	
Omaha, Nebraska)	
)	
Complainant,)	
)	
vs.)	
)	
Paul Utecht, an individual,)	
Rector Redimix Concrete Co., a)	
corporation; Kearney Crete and Block)	
Company, Inc., a corporation and)	
Christensen Concrete Products, Inc.,)	
a corporation)	
)	
Defendants)	ENTERED: August 31, 1982

BY THE COMMISSION:

OPINION AND FINDINGS

By a complaint filed September 23, 1981, Herman Bros., Inc. alleges that defendant Paul Utecht, either individually or in combination with one or more of the additional defendants, has been transporting bulk cement in Nebraska intrastate commerce without the requisite authority. Defendants filed a special appearance and objection to interrogatories. Subsequently, by stipulation of the parties it was agreed that the special appearance be overruled, that the complaint be dismissed as to all defendants except Paul Utecht, and that the Commission grant the request of defendant, Paul Utecht for entry of a consent decree in this proceeding. The Commission finds that the relief requested is in the interest of substantial justice and satisfactory to all parties involved.

After due consideration of the evidence and being fully advised in the premises, the Commission is of the opinion and finds:

1. That defendant, Paul Utecht, has not knowingly or willfully violated the laws of the state of Nebraska or the rules and regulations of the Nebraska Public Service Commission.
2. That defendant, Paul Utecht, agrees to the entry of an order by this Commission enjoining him from holding himself out to the public as a motor carrier of regulated commodities in Nebraska intrastate commerce without the requisite authority, and agrees to cease and desist from so holding himself out, and from providing such a transportation service without the requisite authority.
3. That the complaint should be dismissed as to defendants, Rector Redimix Concrete Co., Kearney Crete and Block Company, Inc. and Christensen Concrete Products, Inc.
4. That the entry of this order satisfies the interest of the complainant, Herman Bros., Inc.
5. That no further hearing or evidence will be required by the Commission, and that the entry of this order effectively terminates formal complaint No. FC-1144.
6. That defendant, Paul Utecht, shall not use any evidence of transportation services performed prior to the entry of this consent decree in any future application for operating authority filed by him with this Commission.

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O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that the complaint be dismissed as to defendants, Rector Redimix Concrete Co., Kearney Crete and Block Company, Inc. and Christensen Concrete Products, Inc.

IT IS FURTHER ORDERED that the request of defendant Paul Utecht for entry of a consent decree under the terms and conditions set forth above be granted.

IT IS FURTHER ORDERED that Paul Utecht cease and desist from holding himself out to provide, and from providing, service as a motor carrier of regulated commodities in Nebraska intrastate commerce without first obtaining the requisite authority.

IT IS FURTHER ORDERED that defendant, Paul Utecht, shall not use any evidence of transportation services performed prior to the entry of this order in any future application for operating authority filed by him with this Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 31st day of August, 1982.

NEBRASKA PUBLIC SERVICE COMMISSION

Harold D. Simpson

Chairman

ATTEST:

Terrence L. Kuback

Executive Secretary

COMMISSIONERS CONCURRING:

Duane D. Gay