

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of:

Wayne F. Rowe, Director
Transportation Department
Nebraska Public Service Commission
Complainant

vs.

ROBERT GARTNER dba WILLIAMS
TRANSFER & STORAGE 417 North Shady
Bend Road Grand Island, NE 68802
Defendant.

) Complaint No. 2942

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) DEPARTMENTAL

) COMPLAINT

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FILED

AUG 17 1990

SECRETARY
NEBRASKA PUBLIC SERVICE
COMMISSION

Wayne F. Rowe, pursuant to Section 75-322.02, R.R.S. 1943, as amended (1989 Supp.), for Complaint against ROBERT GARTNER dba WILLIAMS MOVING & STORAGE ("Defendant") alleges:

1. Complainant is the Director of the Transportation Department of the Nebraska Public Service Commission ("Commission") and is custodian of the Commission's Motor Transportation Records and Documents.

2. Defendant Robert Gartner is the proprietor of Williams Transfer & Storage which is a Motor Carrier doing for-hire intrastate carriage in Nebraska. Examination of the Commission's records and documents shows Defendant does not have authority either by certificate or permit to conduct for-hire intrastate carriage as Williams Transfer & Storage;

3. Examination of the Commission's records and documents shows Defendant has approved equipment leases between itself and SHIPPER'S TRANSPORTATION, INC. (M-12964), but these equipment leases do not constitute a lease of authority approved by the Commission pursuant to §75-318, R.R.S. 1943, as amended.

4. On April 24, 1990 an audit of Defendant's bills of lading was conducted by Commission Rate Division Analyst Rob Logsdon.

5. On or about the following dates, Defendant willfully committed the following violations of the applicable Nebraska statutes, the Commission's rules and regulations, and Household Goods Tariff 7-D as specifically set forth below:

1. Defendant shipped Household Goods from Hastings to Lincoln on 9 March 90 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

Shipper: Robert Brommer Date: 9 March 90
Origination: Hastings Destination: Lincoln
Bill of Lading No.: Unavailable
Commodity: Household Goods

II. Defendant shipped Household Goods from McCook to Kearney on 11 December 89 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

Shipper: Dwayne Imel Date: 11 December 89
Origination: McCook Destination: Kearney
Bill of Lading No.: Unavailable
Commodity: Household Goods

III. Defendant shipped Household Goods from Calloway to Kearney on 28 March 90 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

Shipper: Nunley Date: 28 March 90.
Origination: Calloway Destination: Kearney
Bill of Lading No. Unavailable
Commodity: Household Goods

IV. Defendant shipped Household Goods from Doniphan to Grand Island on 23 February 90 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

Shipper: Glen Patton Date: 23 February 90
Origination: Doniphan Destination: Grand Island
Bill of Lading No. #15892.
Commodity: Household Goods

V. Defendant shipped Household Goods from North Platte to Grand Island on 15 March 90 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

Shipper: Timothy Tucker Date: 15 March 90.
Origination: North Platte Destination: Grand Island
Commodity: Household Goods
Bill of Lading: Public Voucher For Transportation Charges (U.S.)

VI. Defendant shipped Household Goods from Nebraska City to Cambridge on 15 February 90 without authority and in violation of the established rates and requirements of the Household Goods Tariff.

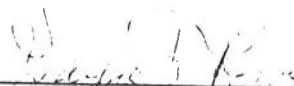
Shipper: Reverend Schmidt Date: 15 February 90
Origination: Nebraska City Destination: Cambridge
Commodity: Household Goods

Defendant's shipments of Household Goods identified in Allegation 5. are therefore in violation of: (1) §75-126(1)(e), R.R.S. 1943, as amended, which states: "[N]o common carrier shall: (e) Demand, charge, or collect, by any device whatsoever, a lesser or greater compensation for any service rendered than that filed with or prescribed by the commission (sic) [.]"; (2) Household Goods Tariff 7-D, prescribed by the Commission pursuant to §75-124 and §75-308, R.R.S. 1943, as amended; and (3) §75-309, R.R.S. 1943, as amended, for operating as a common carrier without a certificate of authority having been prescribed by the Commission.

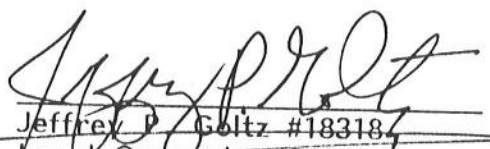
6. TOTAL VIOLATIONS

- 1) Income derived without proper authority \$14,440.15.
- 2) Flat rates for Walker and Patton \$1,500.00.
- 3) Omitted or incorrect additional transportation charges \$246.51.
- 4) Omitted or reduced container and packing charges \$1,083.63.

WHEREFORE, Complainant prays the Commission: (a) serve the Defendant with a copy of this Complaint, (b) enter an order fixing a time for hearing, (c) serve proper notice of said hearing date and, after hearing, (d) enter an Order levying a civil penalty against the Defendant pursuant to Section 75-322.02 and Title 291, Chapter 1, Rule 027.02B in an amount not less than \$13,565.35 and any other Order the Commission deems appropriate and which is within its jurisdiction to render including, but not limited to, an Order that the Defendant cease and desist from operating without authority, operating beyond the scope of its authority, and from failing to obey the terms of the applicable tariffs.



Wayne F. Rowe, Director
NPSC Transportation Dept.




Jeffrey P. Goltz #18318
Legal Counsel, NPSC

VERIFICATION


STATE OF NEBRASKA)
) ss
COUNTY OF LANCASTER)

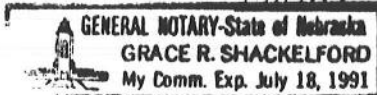
Wayne F. Rowe, being first duly sworn, deposes and says that he is the duly appointed and qualified Director of the Transportation Department; that he is the Complainant in the allegations in the foregoing Departmental Complaint; that he has read the allegations therein, and they are true as he verily believes.



Wayne F. Rowe, Director
Transportation Department
Nebraska Public Service Commission

Subscribed and sworn to me before this 17th day of
August,
1990.



Notary Public
NOTICE

1. Pursuant to Title 291, Ch. 1, Rule 027.03A(5), Defendant is hereby informed that (a) the Commission will set a hearing date for this Complaint and give notice to the Defendant of the date and location of the hearing and that (b) failure to answer this Complaint within twenty days after the date of service will be construed as an admission of the allegations so stated herein.
2. Failure to file an answer or to appear at the hearing allows the Commission to (a) enter an Order assessing a civil penalty as provided for by law for the violations alleged in this Complaint or (b) the Commission may proceed with the hearing to receive evidence of the alleged violations and it may assess civil penalties as provided thereof.