

Decision No. 12980

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
MILO W. BEKINS, FLOYD R. BEKINS,
REED J. BEKINS and R. M. B. HOLT,
partners in business under the name
of BEKINS FIREPROOF STORAGE for a
certificate of public convenience
and necessity to operate an auto-
mobile truck service for the trans-
portation of household goods between
Los Angeles, Fresno, Oakland and San
Francisco and intermediate points via
the Coast Route and San Joaquin Valley
Route.

Application No. 9181.

Richard T. Eddy, for applicant.
Warren E. Libby and Harry N. Blair, for
California Highway Express and Pacific
Highway Express, protestants.
C. E. Tribit, Jr., for Richards Trucking and
Warehouse Company, protestant.
F. M. Hodge, for San Joaquin Valley Trans-
portation Company.

SHORE, Commissioner.

O P I N I O N

In the above numbered application Milo W. Bekins,
Floyd R. Bekins, Reed J. Bekins and R. M. B. Holt, co-partners
doing business under the firm name and style of Bekins Fire-
proof Storage, petition the Railroad Commission for a certi-
ficate of public convenience and necessity authorizing the
operation by them of automotive trucks for the transportation
of household goods, pianos, trunks and baggage and other personal
property, office furniture and equipment, for compensation be-
tween the termini of San Francisco and Los Angeles and inter-
mediate points, via the public highways on what are known as the
Coast Route and the Valley Route and including the territory

extending to a distance of thirty miles on either side of said highways. Applicants propose to operate on a schedule of weekly trips via the Valley Route and on the 5th and 20th of each month via the Coast Route, and to operate extra trips as the traffic requirements demand.

Public hearings on this application were held in Los Angeles, briefs were filed, final arguments of counsel for applicants and protestants were heard before the Commission en banc, the matter was duly submitted and is now ready for decision. This application was heard concurrently with Case No. 1918, the latter being a complaint by certain protestants herein against applicants herein for alleged unlawful motor truck transportation. The evidence was consolidated so far as applicable to both matters.

Bekins Fireproof Storage is a partnership formed in 1918, prior to which time the business was carried on under the name of Bekins Fireproof Storage Company and Bekins Van and Storage Company, both of which companies were owned by the parents of the members of the present partnership known as Bekins Fireproof Storage. Applicants operate 4 large storage warehouses at Los Angeles, San Francisco, Oakland and Fresno. In connection with these storage warehouses they operate in these cities a general transfer business in the moving of household goods and other articles. Applicants have accumulated in the development of this business, assets aggregating a total value estimated at \$1,891,042. Against these assets there are no encumbrances other than an undertaking by the members of this partnership to their parents. Their equipment includes 55 trucks and 8 trailers, of which 26 are closed vans, and applicants state that whatever proportion of these should be required for the long distance hauling would be set aside for that purpose and that they were in a position to purchase additional

equipment if it were required.

Growing out of their local transfer and drayage business in Los Angeles, San Francisco and Oakland and to meet the requirements of their patrons in these cities, applicants gradually extended their operations, handling shipments of household goods going by rail or motor truck to distant points in and out of the state. With the growth of this business they have developed a three fold form of transportation service, which they designate as (1) pool car shipments, (2) lift van shipments, and (3) motor truck shipments, it being claimed by them in this proceeding that by giving the public a choice of one or other of these methods of shipment they are able to render a broader and better service to the public than they could by confining their operations to any one particular method. Applicants testified that while their business solicitors are instructed not to discriminate in favor of one or other of these methods of shipment but to advise their patrons according to their convenience and preference, they have found that with the improved condition of the public highways, and with less liability of damage to furniture by the single handling, as well as the convenience and economy of non-crating, involved in shipment by motor truck vans, they have observed a growing demand for motor truck transportation of these goods. In addition to direct delivery at the street address of consignee, they provide when necessary storage in the vans for a few days at points of destination where their warehouses are located until consignee is ready for delivery.

These long distance motor truck operations growing out of their local transfer and drayage business in these cities were begun by applicants in the business of the Bekins Van and Storage Company prior to May 1, 1917. During a period of several months prior to May 1, 1917, nine trips were made from Los Angeles to Santa Barbara, nine trips to Bakersfield, and six or seven trips

from San Francisco to Fresno. The first shipment of household goods hauled by them by truck between Los Angeles and San Francisco moved some time in 1917 by the Valley Route. Since these earlier trips they have hauled household goods, personal effects, pianos and office furniture as the business was offered to them. Thus their business developed until in the twelve months of 1922 they hauled 2,181,144 pounds and in the first six months of 1923 they hauled 2,204,349 pounds, showing practically double the volume of business in 1923 over that of 1922. Witnesses from two of the large storage warehouses of Los Angeles testified to the growing public demand for this method of transportation over these routes, and to their use of the services of applicants and to the satisfactory quality of the service rendered.

When the operations of applicants first came informally to the attention of the Railroad Commission it was then believed by the Commission that the operations were so irregular as to make them not subject to the jurisdiction of the Commission, and when applicants in the latter part of 1931 submitted their operations to the opinion of the Commission, and offered to make application then for a certificate of public convenience and necessity, they were advised that as their operations were understood at that time they were not deemed subject to the jurisdiction of the Commission.

The business of applicants has, however, grown to such a point of regularity and to such a volume, and they are so manifestly holding themselves out to the public to perform this transportation service, that the Commission is convinced that their operations are now subject to the jurisdiction of the Commission. They were so advised in May of this year, whereupon they filed application for a certificate of public convenience and necessity and this proceeding was had thereon.

The application was protested by the California Highway Express and by the Pacific Highway Express. Both of these

carriers received their certificates of public convenience and necessity in March, 1922. The former operates between Los Angeles and San Francisco on both the Valley Route and the Coast Route, with certain restrictions as to pick up and delivery at intermediate points. The latter operates between these points only on the Valley Route. The former operates on a schedule of two trips each week via the Valley Route and one trip weekly via the Coast Route, and for this service has an equipment of 3 closed vans, one truck for local pick up and delivery, one trailer and 2 leased trucks. The latter operates on a schedule of three trips each month, with an equipment of one truck owned and another truck occasionally leased.

A. A. Nelson, president and manager of the California Highway Express, testified that his business has increased this year one hundred per cent over that of last year, and that he has ordered an additional truck to meet the growing demand. He also stated that he is operating now to only 70 per cent of his capacity including his two leased trucks, and about to his full capacity not including leased trucks but that even with the leased trucks the deficient 30 per cent of his capacity would be absorbed by his growing business, regardless of the Bekins Company receiving a certificate. He stated that between 40 and 50 per cent of his business is secured by special arrangement with the Draymen's Association, 30 per cent is secured by the drivers of his trucks, and 25 per cent by advertising and solicitation, and that it is in the area of this last 25 per cent of his business that he meets his principal competition from Bekins. He claimed that if the Bekins Storage Company were refused a certificate and ordered to desist in operations he would secure a large proportion of their present business, and this would give him an assured success.

E. H. Shull, owner of the Pacific Highway Express, testified that his business has increased in 1923 forty per cent

over that of 1922, that he owns one truck and when necessary he rents another. Altogether he operates to about 50 per cent capacity and in his first ten months operation in 1922 made a profit of \$1600 not allowing his own salary. His protest was based on similar grounds to those of Mr. Nelson, chiefly that he wanted to have the competition of Bekins eliminated so that he might have a share of what they now do.

The evidence submitted by applicants and protestants alike showed a rapidly increasing public demand for motor truck transportation in the moving of household goods, personal effects and office furniture. With the business of the applicant and the protestants practically doubled in the past year, it becomes evident that this class of transportation over these main highways will grow to still larger proportions in the near future.

It is contended by protestants that they could take care of the growing traffic by leasing such additional trucks as may be required beyond their own equipment. The evidence shows however that this business requires closed vans for the most satisfactory service, that those now leased are not of the closed van type and that it is very difficult to lease trucks of that character.

Under all the conditions presented, it appears that the Bekins Fireproof Storage, with its ownership of 26 closed vans in addition to 29 other trucks and 8 trailers, with its financial ability to provide additional equipment for dedication to this service, and with its ability to house at either terminal goods desired to be held for later delivery, with its record of business already developed and with its established contact with the moving public in the four large cities mentioned in the application, is in a favorable position to render a valuable service to the public by this form of transportation.

Protestants based their opposition to the application largely

upon what they termed the illegal operation of the applicants over a period of some two years prior to the date of application. The evidence shows, however, that prior to the securing of certificates by protestants herein, and at the time of their applications thereto, the applicants herein had offered to submit themselves to the jurisdiction of the Commission and to make application for certificate of public convenience and necessity for their operation, that they have at all times held themselves willing to submit their operations to the Commission's jurisdiction, and that they have conducted their operations in good faith on the understanding had by them with the Commission at that time.

Counsel for protestants in final argument before the Commission in addition to his arguments supporting the complaint of illegal operations by applicants herein, further urged upon the Commission that a decision be rendered upon the principle of protecting the rights of existing authorized carriers from the competition which the granting of a certificate in accordance with this application would authorize.

In this connection the Commission notes first that the protestants received their respective certificates on a basis of competition with each other and with other carriers, and following a period of previous unauthorized transportation operations by them, and in addition thereto has in this Opinion already pointed out the good faith with which applicants herein at that time offered to submit themselves by an application to the Commission's jurisdiction.

The Public Utilities Act and the Auto Stage and Truck Transportation Act with their amendments, under which the regulation of transportation utilities by this Commission is carried on, expressly make public convenience and necessity the sole basis upon which certificates from this Commission may be granted. The question of protecting existing carriers or of allowing com-

petition with them under additional certificates must be answered entirely on the ground of public convenience and necessity. Sometimes that final test may best be met by a restriction of operative rights to a single certificate and sometimes by affording a reasonable competition. Competition under some conditions may tend to break down the more established means of transportation upon which public convenience and necessity may ultimately depend. On the other hand, public convenience and necessity may sometimes demand provision for new or improved methods, forms or routes of transportation even at the expense of existing means of transportation, or may require that consideration be given to the growth of traffic demand. Transportation over less traveled highways in districts where the population and the normal business are comparatively small could not be sustained under a competition which might be very beneficial and favorable to public convenience and necessity as applied to transportation on the main highways that feed our large cities and intensively developed communities. In each case it is a matter for the Commission to determine upon the basis of the facts available.

It is apparent from the evidence submitted in this proceeding that the demand for motor truck transportation of certain goods and commodities on the two main highways between Los Angeles in the south and San Francisco and Oakland in the north has already reached large proportions and shows indications of a very rapid and considerable growth. The shipment of household goods is particularly susceptible of this development.

The Commission believes that the proposed operation of applicants with such tariff modifications as are provided for in the Order herein made, will be in the interest of public welfare both in its effect upon the quality and efficiency of service rendered and in helping to meet the growing public demand.

Accordingly the Commission hereby finds as a fact that public

convenience and necessity require the operation by Milo W. Bekins, Floyd R. Bekins, Reed J. Bekins and R. M. B. Holt, co-partners, doing business under the fictitious name and style of Bekins Fireproof Storage, of an automobile truck service for the transportation of household goods, pianos, trunks and baggage and other personal property, office furniture and equipment, between the termini of San Francisco and Los Angeles and the termini of Oakland and Los Angeles via both the coast route and the San Joaquin Valley route, State Highways, including all intermediate points on said highways, also all points within territory extending a distance of thirty miles on either side of said highways, and an Order will be entered accordingly.

O R D E R

A public hearing having been held in the above entitled application, the evidence having been submitted, the Commission being fully advised in the premises, and basing its Order upon the statements and findings of fact contained in the Opinion preceding this Order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by Milo W. Bekins, Floyd R. Bekins, Reed J. Bekins and R. M. B. Holt, co-partners, doing business under the fictitious firm name and style of Bekins Fireproof Storage, of an automobile truck service as a common carrier of household goods, pianos, trunks and baggage and other personal property, office furniture and equipment between the termini of San Francisco and Los Angeles and the termini of Oakland and Los Angeles, via both the coast route and the San Joaquin Valley route, State Highways, including all intermediate points on said highways, also all points within territory extending a distance of thirty miles on either side of said highways, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for said operation be and the same is hereby granted, subject to the following conditions:

1. Rates to be charged by applicants herein shall not exceed \$4.40 per hundred pounds between termini, graduating proportionately to intermediate points, a revised tariff to be submitted for the approval of the Railroad Commission within a period of not to exceed thirty (30) days from date hereof.

2. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof and shall commence operation within a period of not to exceed forty (40) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order is hereby fixed and designated as the 30th day of January, 1924.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission.

Dated at San Francisco, California, this 3rd day of January, 1924.

C. C. Seaver
H. B. Brundage
Egerton Shore
Commissioners.