

Decision No. 31190

ORIGINAL
CALIFORNIA

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
C. W. CARLSTROM, doing business
under the fictitious firm name and
style of ACE VAN & STORAGE, for a
certificate of public convenience and
necessity to operate a van line service
as a common carrier between San Diego
and Los Angeles, and intermediate
points.

Application No. 20836

Phil Jacobson, for Applicant;
D. G. Shearer, for Certificated Highway Carriers, Inc.,
Protestant;
Wallace K. Downey, for Pacific Freight Lines and
Keystone Express System, Protestant;
H. J. Bischoff, for Southern California Freight Lines,
Protestant;
C. P. Von Herzen, for Bekins Van Lines, Protestant;
Ellis Brown, for Triangle Transfer & Storage Company,
Protestant;
E. T. Lucey and W. E. McMillen, for The Atchison,
Topeka & Santa Fe Railway Company, Pro-
testant;
F. F. Willey, for Pacific Electric Railway, Pro-
testant;
W. L. Carpenter, for Argonne Van Lines, Protestant;
Harold W. Dill, for Truck & Warehouse Association of
San Diego and Imperial Counties, Interested
Party.

BY THE COMMISSION:

O P I N I O N

In this proceeding, C. W. Carlstrom, doing business as Ace Van & Storage, seeks a certificate of public convenience and necessity authorizing him to operate, under such fictitious name an automobile truck service for the transportation of new and used household

goods, office and store furniture, fixtures, furnishings, personal effects, musical instruments, and other household and office equipment and showcases, as a common carrier between San Diego and Los Angeles, and intermediate points, including all points within a lateral zone of thirty miles on either side of the main traveled highways between said points and including the right to so operate ten (10) miles beyond the city limits of Los Angeles. Applicant proposes a minimum of two trips a week between the main terminal cities. Proposed routes, rates, and description of applicant's equipment accompany the application.

A public hearing was had before Examiners Austin and McCaffrey at San Diego and Los Angeles, when evidence was offered, the matter submitted, and it is now ready for decision.

Applicant, C. W. Carlstrom, has been engaged in moving, storing and packing household and office furniture in San Diego since 1928. He also operates warehouses for the storage of such articles in San Diego, Los Angeles, Long Beach and San Pedro, and conducts a furniture moving business as a radial highway common carrier and as a contract carrier.

The rates which applicant proposes are considerably lower than those which the Commission established by Decision No. 28810 in Case No. 4086 and Case No. 4099 as the minimum rates required to be charged by highway common carriers, highway contract carriers and radial highway common carriers operating in the territory where applicant desires to be certificated. Applicant presents this as the principal necessity for his certification.

This Commission now has, under the provisions of the Public Utilities Act, and those of the Highway Carriers' Act, authority to adjust the rates of all highway carriers. Pursuant to such authority the Commission, by the decision hereinbefore referred to, has established, after a careful consideration of the evidence, including cost studies and other pertinent data, the minimum rates required to be charged by all such carriers operating in the territory which applicant seeks to serve. These are the rates, from the observance of which, applicant here seeks to be relieved.

It is well established that the mere proposal of an applicant to establish rates lower than those observed by other carriers in the field, standing alone, is insufficient to warrant the establishment of competitive service, the proper remedy being the filing of a complaint against the rates of existing carriers rather than the introduction of another truck service. (In Re Holmes, 29 C.R.C. 244). The provisions of the Public Utilities Act and of the Highway Carriers' Act, to which we have referred, requiring the Commission to establish rates for all highway carriers, serve to strengthen the Commission's previous conclusion upon this point.

Applicant does not contend there is anything connected with his proposed service in the nature of a patented device or system in which he has exclusive rights. Each advantage which he claims over other carriers could with equal facility be adopted by them if it should prove as effective as applicant contends.

The principal economy by which applicant supports his claimed ability to serve at a lower rate is his use of vans having approximately double the carrying capacity of equipment used by other common carriers. He maintains the cost of operating the

larger type equipment to be practically the same as the operating cost of smaller equipment, and, hence, being able to carry twice the load for approximately the same cost, he can cut the rate. This entire proposition is, of course, predicated upon an assumption, not supported by the record, that his equipment will always move with a full load.

Floyd Bekins, Vice-President of Bekins Van Lines, submitted a study of the traffic handled by Bekins Van Lines, a certificated common carrier, in its operations between San Diego and Los Angeles, from January 1, 1936 to October 30, 1936. During this period 243 trips were made between these points. The average load capacity of the equipment used was 9601 pounds, while the average load was 5330 pounds, thus indicating a load factor of but 55%. The average number of trips made per week during this period was 3.1. On 18% of the trips, the equipment loaded from 75% to 90% capacity; on 14% of the trips, the equipment was loaded to capacity; on 21% of the trips the equipment was loaded from 50% to 75% capacity; on 18% of the trips the equipment was loaded from 25% to 50% of its capacity; on 29% of the trips the equipment was loaded at less than 25% capacity.

The correctness of the Bekins study is indicated by the testimony of Ellis Brown, Manager, Triangle Transfer & Storage Company, protestant, who quoted like figures based upon the experience of that company in common carrier operations between these points.

H. J. Bischoff, President of Southern California Freight Lines, protestant, and Floyd Bekins, Vice-President of Bekins Van Lines, each testified their experience indicated the calculation of

a rate upon a full load basis for furniture movement between San Diego and Los Angeles to be unsuited to the actual traffic condition.

Witnesses testified that the large type vans which applicant proposes to use would not be practical. In this connection, Floyd Bekins testified that though Bekins Van Lines operated equipment having a much greater load capacity than that proposed to be used by applicant, they found it could be used but a small portion of the time, because, as indicated by the study above mentioned, the size of the load was seldom sufficient to justify sending it out.

From the testimony of these witnesses, based, as it was, upon studies of actual operation of the type proposed by applicant, it appears that applicant's claimed ability to serve at lower rates is wholly unsubstantiated.

In addition, the record reveals certain of respondent's items of cost to be unreasonably low. For example, his labor cost was considerably under that of other operators and included a certain amount of labor for which applicant stated he did not have to pay anything.

The Commission is satisfied that applicant's cost study is not founded upon a basis applicable to conditions existing in the transportation field which he seeks to enter, and should therefore be given small consideration in this proceeding.

Applicant presented testimony of a number of second-hand furniture dealers doing business in Los Angeles and San Diego. In substance these witnesses stated the existing service was adequate, but they would, naturally, appreciate the lower rate proposed by respondent. Representatives of the Atchison, Topeka & Santa Fe

Railway Company, Bekins Van Lines, Southern California Freight Lines, Argonne Van & Storage Company, Triangle Transfer & Storage Company, protestants and existing carriers, testified to the restricted volume of traffic. They further testified, and presented studies supporting their testimony, that their concerns could handle a greatly increased amount of freight in the territory which applicant seeks to serve. The traffic studies hereinbefore referred to, submitted by Bekins Van Lines and Triangle Transfer & Storage Company, which show the equipment now being operated by these concerns to be capable of handling a greatly increased volume, corroborate this testimony.

Applicant did not establish any new source from which he expected to obtain his business in the event the certificate should be granted. It therefore appears that any traffic he obtains would be diverted from existing carriers.

Upon a full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the operation by applicant, C. W. Carlstrom, doing business under the fictitious firm name and style of Ace Van & Storage, of a motor truck service, as a highway common carrier as defined by Section 2-3/4, Public Utilities Act, for the transportation of new and used household goods, office and store furniture, fixtures, furnishings, personal effects, musical instruments, and other household and office furniture and showcases, between San Diego and Los Angeles, and intermediate points, including all points within a radius of thirty (30) miles on either side of the main traveled highways between said points, including a right to operate ten (10) miles beyond the city limits of Los Angeles. Accordingly, the application will be denied.

O R D E R

A public hearing having been had in the above entitled application, evidence having been received, the matter having been duly submitted, and the Commission now being fully advised;

IT IS HEREBY ORDERED that said application of C. W. Carlstrom for a certificate of public convenience and necessity be and it is hereby denied.

Dated at ^{Los Angeles} ~~San Francisco~~, California, this 15th day of August, 1938.

Ray Swanson
Frank R. White
Ray L. Rice
Commissioners.