

Decision No. 23074

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WESTERN TRUCK LINES, LTD., a corporation,)
for a certificate of public convenience)
and necessity for the transportation of)
property as an extension and enlargement)
of their present rights between certain)
intermediate and off-route points)
between Los Angeles and Blythe.)

ORIGINAL

Application No. 23074

PHIL JACOBSON, for Applicant.

C. G. ANTHONY, for Pacific Freight Lines and
Keystone Express System, Protestants.

C. W. DUKEROW, by E. L. H. Bissinger, for Southern
Pacific Company, Interested Party.

H. P. MERRY, for Southern California Freight Lines
and Southern California Freight Forwarders,
Protestants.

J. W. KENDALL, for California Van and Storage
Association, Bekins Van Lines, Inc. and Lyon
Van Lines, Inc., Protestants.

CRAEMER, Commissioner:

O P I N I O N

In this application, as amended, Western Truck Lines, Ltd., a corporation, requests a certificate of public convenience and necessity for the establishment and operation of a highway common carrier service from Pomona, Ontario, Riverside and Indio, to points east of Mecca and points east of Indio, to and including Midland, Blythe and the intersection of the California-Arizona state line east of Blythe; and between Redlands, San Bernardino and Colton, on the one hand, and points east of Mecca and points east of Indio, to and including Midland, Blythe and the intersection of the California-Arizona state line east of Blythe, on the other hand, as an extension and enlargement of applicant's present operative right in the territory involved.

A public hearing thereon was had at Riverside, on January 24, 1940, and the matter having been duly submitted is now ready for decision.

Pacific Freight Lines, Keystone Express System, Southern California Freight Lines, and Southern California Freight Forwarders protested the granting of the application. Southern Pacific Company appeared as an interested party. Bekins Van Lines, Inc., Lyon Van Lines, Inc., and California Van and Storage Association protested the granting of the application with respect to the transportation of uncrated household goods not packed in accordance with the Western Classification.

Applicant and counsel for Bekins Van Lines, Inc., Lyon Van Lines, Inc. and California Van and Storage Association stipulated that any certificate granted may exclude the transportation of household goods, unpacked or uncrated, between the points for which the certificate is sought.

Applicant is now providing a highway common carrier service, under a certificate originally granted by Decision No. 8567, from Blythe to Mecca, Thermal, Coachella, Indio, Palm Springs and Whitewater, and all points intermediate to Whitewater and Los Angeles-- from Los Angeles to Blythe and all points intermediate to Blythe and Mecca, but not including Mecca. As an extension of such service applicant is also providing a highway common carrier service, under the authority of the Commission's Decision No. 32245, between Blythe and Midland and intermediate points; between Blythe and points on U. S. Highway No. 60 at its intersection with the California-Arizona state line and intermediate points, and certain lateral operations. The Los Angeles area includes Vernon, Maywood, Bell, Huntington Park, Southgate and intermediate points, as more

particularly described in said Decision No. 32245. Applicant is also providing a highway common carrier service between other points which has no direct relationship to this proceeding.

Applicant's general route of operation between Los Angeles and Blythe is over and along U. S. Highways Nos. 60, 70, 99 and state route No. 111, through Pomona, Ontario, Riverside, Beaumont, Palm Springs, Indio, Coachella, Mecca and Desert Center. In this application applicant requests authority to operate over U. S. Highways Nos. 70 and 99, between Ontario and Beaumont, via Colton, and over U. S. Highway No. 60, as an alternate route between Indio and a point near Whitewater where U. S. Highway No. 60 is intersected by state route No. 111, and over U. S. Highway No. 60 between the intersection of said highway with U. S. Highway No. 99, between Indio and Coachella, and a point near Shaver's Summit which lies easterly from Coachella.

Applicant also proposes to operate over the public highways between Riverside, Colton and San Bernardino and over the public highway between San Bernardino and Redlands.

Approximately seventeen public witnesses testified in support of applicant's proposed service. These witnesses were representative shippers or receivers of freight who have business establishments at Ontario, Blythe, Redlands, Riverside, San Bernardino or Desert Center. Their testimony was in regard to general commodities, including nursery stock, tractor parts, dairy products, hardware, plumbing supplies, bakery goods and general merchandise. Typical of the testimony was that of Mr. George C. Perry of ^{San} Bernardino, who manages the store of Crane Company at that point. He testified that he has occasion to make some twelve to sixteen shipments monthly between San Bernardino and Blythe and the

territory adjacent thereto, as well as to other points; that the service proposed by applicant would be from approximately twelve to thirty-six hours running time faster than the rail service (The Atchison-Topeka & Santa Fe Railway Company) now available between San Bernardino and Blythe; and that the average weight of such shipments varies from three to eight tons. J. S. Shrimp, engaged in the manufacture of sashes, doors, blinds and other milled wood products, testified that he needs the service proposed by applicant for the transportation of his products to Blythe and other points; that the only service now available between such points is a rail service which requires approximately forty-eight hours for the transportation of his shipments from Riverside to Blythe.

Evidence was also adduced showing a need for an interchange service at Indio for shipments moving between Imperial Valley and points east of Indio, now served by applicant, including Midland and Blythe.

Pacific Freight Lines, Keystone Express System and Southern California Freight Lines offered to enter into a joint rate arrangement with applicant covering the transportation of property between Pomona, Ontario, San Bernardino, Colton, Riverside, and Redlands, on the one hand, and points east of Mecca and points east of Indio to Blythe, Midland and the California-Arizona state line east of Blythe, and territory contiguous to Blythe, on the other hand, the point of interchange to be either at San Bernardino or Riverside. Applicant declined to accept such offers.

None of the protestants herein is able to provide a through service between the points involved in this proceeding. Shipments moving from San Bernardino, Redlands, Colton and contiguous

territory to Blythe or Midland are generally routed via The Atchison, Topeka & Santa Fe Railway Company which, although notified, made no appearance in this proceeding. The time in transit involved, via said railway, appears in this record to be approximately forty-eight hours.

As an alternative, shipments moving between the above points can move over the facilities of protestants to Los Angeles and there tendered to applicant for transportation to Blythe, Midland and points east of Mecca.

It is apparent that the present method of transporting shipments between Blythe and both the Imperial Valley and points west of Indio is unsatisfactory for the reason that there is a substantial and unnecessary back haul involved since the point of interchange between applicant and various other carriers in the field is at Los Angeles rather than at the logical connection or interchange point of applicant with the other carriers. For example, a shipment moving between San Bernardino and Blythe is carried to Los Angeles by a carrier in the field and there turned over to applicant for delivery to Blythe, thus involving an unnecessary back haul between Los Angeles and San Bernardino.

From the record it is clearly apparent, and I so find, that there is a public need for the establishment and operation of a highway common carrier service from Pomona, Ontario, Riverside and Indio to points east of Mecca and to points east of Indio, now served by applicant, and between Redlands, San Bernardino, and Colton, on the one hand, and points east of Mecca and points east of Indio, now served by applicant, to and including Blythe, Midland and the California-Arizona state line east of Blythe, on the other hand, over the routes as hereinafter set forth, except for the

transportation of household goods unpacked or uncrated.

Western Truck Lines, Ltd. is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

I recommend the following form of order.

ORDER

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted, and the Commission now being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Western Truck Lines, Ltd., a corporation,

of an automotive service for the transportation of property, except household goods unpacked or uncrated, as a highway common carrier, as that term is defined in section 2-3/4 of the Public Utilities Act, as follows:

- A. From Pomona, Ontario, Riverside and Indio, to points east of Mecca and points east of Indio which applicant is now authorized to serve,
- B. Between Redlands, San Bernardino and Colton, on the one hand, and points east of Mecca and points east of Indio which applicant is now authorized to serve,

said service to be provided over and along applicant's present lawful routes and the following additional routes:

- 1. U. S. Highway No. 70, between Ontario and Beaumont, via Colton and Redlands,
- 2. U. S. Highway No. 395 between Riverside and San Bernardino,
- 3. The public highway between San Bernardino and Redlands,
- 4. U. S. Highway No. 60 between Indio and a point where such highway intersects with state route No. 111 near Whitewater,
- 5. U. S. Highway No. 60 between Shaver's Summit and a point where such highway intersects with U. S. Highway No. 99 between Coachella and Indio.

Said service is to be provided as an extension and enlargement of operative rights heretofore created by Decision No. 8567, dated January 19, 1921, and Decision No. 32245, dated August 15, 1939.

IT IS ORDERED that a certificate of public convenience and necessity therefor is hereby granted to Western Truck Lines, Ltd., subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
3. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file, in triplicate, and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
4. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five (5) days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
5. 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 obtained.
6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.
7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No.91.

The effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of March, 1940.

Ray C. Allen
Frank P. Quinn
Robert W. Johnson
W. B. M. M.
Justus F. Caenen
COMMISSIONERS