

Decision No. 33013

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BEKINS VAN LINES, INC., a corporation, for a certificate of public convenience and necessity to operate as a highway common carrier in the transportation of household goods and allied commodities over the following routes as alternate to existing certificated routes, between Long Beach and Montalvo via U. S. Highway alternate #101, between Los Angeles and Montalvo via U. S. Highway alternate #101 and Pico Boulevard, between State Highway #120 and Stockton via U. S. Highway #50, between Famoso and Paso Robles via U. S. Highway #406, and State Highway #41, between Califa and Gilroy via State Highway #152, between Ventura and Castaic Junction via State Highway #126 and between Visalia Junction and Famoso via State Highway #196 and #65; and as an enlargement and extension of its existing operative rights, between Los Angeles and Arizona-California Line via U. S. Highway #60, #80 and #99, and between Sacramento and the Oregon-California Line via U. S. Highway #99, #99E and #99W, and intermediate points; and certificate de novo in lieu of all other certificates of applicant.

ORIGINAL

Application  
No. 22480

DANIEL P. BRYANT, for Bekins Van Lines, Inc., applicant  
in Application No. 22480.

JACKSON W. KENDALL, for Bekins Van Lines, Inc., Bekins  
Van and Storage Company, and Bekins Van and Storage,  
Inc., in support of Application No. 22480.

C. P. VON HERZEN, for Lyon Van Lines, Inc., applicant  
in Application No. 22588.

C. HAROLD SEXSMITH, for Lyon Van Lines, Inc., and Lyon  
Van and Storage Company, in support of Application  
No. 22588.

E. L. H. BISSINGER, for Pacific Electric Railway,  
Southern Pacific Company, and Pacific Motor Truck-  
ing Company, protestants.

H. J. BISCHOFF, and W. W. McMULLIN, for Southern Cali-  
fornia Freight Lines and Southern California Freight  
Forwarders, protestants.

WALLACE K. DOWNEY, for Pacific Freight Lines and Keystone  
Express System, protestants.

PHIL JACOBSON, for Western Truck Lines, Ltd., protestant.

ELLIS BROWN, for Triangle Transfer and Storage Company,  
protestant.

PERCIE C. THACKER, for Pioneer Truck and Transfer Company,  
in support of Application No. 22480.

V. C. COLLIER, in support of Application No. 22480.

ROBERT B. GNAGERY, for Red Bluff Chamber of Commerce.

DON HEMSTED, for Hemsted Van Lines, in support of  
Application No. 22480.

BY THE COMMISSION:

O P I N I O N

Applicant, Bekins Van Lines, Inc., is a highway common carrier of household goods and personal effects over certain highways in the State of California, pursuant to authority granted by the Commission. (1)

Authority is now sought to conduct a service over alternate routes in the areas now being served, (2) to extend applicant's present operative rights intrastate for the transportation of household goods and personal effects over certain routes which applicant is now serving interstate, (3) and for a certificate de novo in lieu of all other

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(1) Decision No. 16456, April 10, 1926, amended by Decision No. 27919, April 29, 1935.

(2) Route No. 1, between Long Beach and Montalvo via Highway U. S. alternate #101.  
Route No. 1a, between Los Angeles and Montalvo via Pico Boulevard and Highway U. S. alternate #101.  
Route No. 2, between Manteca and Sacramento via Highway U. S. #101.  
Route No. 3, between Stockton and Highway State Route #120 via Highway U. S. #50.  
Route No. 4, between Famoso and Paso Robles via Highway U. S. #466 and Highway State Route #41.  
Route No. 5, between Califa and Gilroy via Highway State Route #152.  
Route No. 6, between Ventura and Castaic Junction via Highway State Route #126.  
Route No. 7, between Visalia Junction and Famoso via Highway State Routes #198 and #65.

(3) Route No. 8, between Los Angeles and the California-Arizona Line via Highways U. S. #80, #80, and #99.  
Route No. 9, between Sacramento and the California-Oregon Line via Highways U. S. #99, #99E, and #99W.  
Route No. 4, that portion of route #4, of approximately 10 miles in length, which is not now included within the territorial operative rights of applicant.

certificates of applicant.

Public hearings were held at Indio on March 27, 1939, and Red Bluff on May 11, 1939, before Examiner Cameron. The matter was duly submitted on the latter date and subsequently an Examiner's Proposed Report was issued. Exceptions to the proposed report were filed and request made for further hearing, <sup>(4)</sup> whereupon, an order was issued February 13, 1940, setting aside submission and the matter reopened for further hearing at Los Angeles on March 5, 1940, before Examiner Malquist. The matter was duly submitted on the latter date and is now ready for decision.

While this order is substantially in accordance with the Examiner's Proposed Report, it differs in some respects as hereinafter specifically set forth.

Upon stipulation of all parties it was ordered that the hearing on this application would be consolidated with Application No. 22588 of Lyon Van Lines, Inc., for the purpose of receiving testimony. The latter application will be disposed of in a separate decision.

Applicant is a corporation organized under the laws of the State of California, copies of its Articles of Incorporation, together with annual financial statements, including the year 1938, now being on file with the Commission and which have been incorporated in the record of this proceeding. A supplemental financial statement as of January 31, 1939, <sup>(5)</sup> together with financial report and list of equipment <sup>(6)</sup> shows applicant's ability to render the service requested.

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(4) Exceptions to Examiner's Proposed Report filed by Southern California Freight Lines, protested that hearings were only held in Indio and Red Bluff and requested that a hearing be set for either Los Angeles or San Diego. Triangle Transfer and Storage Company requested an opportunity to appear and be heard, stating that they had not received notice of the previous hearings in this matter.

(5) Exhibit No. 1.

(6) Exhibit "B" of application.

The record discloses that public convenience and necessity demand a specialized service for the transportation of uncrated household goods and personal effects. The service performed by applicant in picking up uncrated furniture and other household goods at a residence, loading same into a padded van by especially trained household movers, making delivery directly to the residence at destination and placing the furniture in various rooms of the residence, constitutes a service recognized as a specialized form of transportation demanded by the public. The continual improvement of main highways, together with larger and more efficient truck equipment, has enabled applicant to expand its operations and perform a long distance moving service over main highways and between traffic centers in interstate as well as intrastate movement.

Proposed Service East of Los Angeles and San Diego

Applicant's proposed service east of Los Angeles and San Diego is via Highways U. S. #60, #80, and #99, serving all points on each route intermediate between Los Angeles and the California-Arizona border, and between San Diego and the California-Arizona border, and laterally within a distance of thirty miles on either side of said highways. This enlargement is sought to be consolidated and unified with the operating rights now held by applicant as one transportation system.

The record discloses that the population in the territory east of Los Angeles has increased considerably since 1930. In Palm Springs, for instance, the increase was 417 per cent, (7) Blythe, 117 per cent, Beaumont, 84 per cent, Banning, 71 per cent, and Riverside County has increased in population 61 per cent. This increase in population has resulted in the building of many new residences in this territory, and the desert resort areas of Palm Springs, Cathedral City, and Twenty-Nine Palms have shown substantial development in the past

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(7) Exhibit No. 8.

few years. The attractive winter climate of these desert resorts has resulted in a seasonal movement of people to and from these areas. In the fall of the year many people move their household goods and personal effects, uncrated, to the desert resorts and in the springtime the movement is outbound from such resort areas, principally to the Los Angeles metropolitan area, with some shipments moving north of Los Angeles to other parts of the state. In order to provide for this seasonal influx, various business organizations, such as oil companies and chain stores, are required to move their employees to and from these areas.

The record further discloses that during a six-month period prior to the hearing at Indio, there were forty-eight inquiries for service to and from this area received by applicant's agents, (8) and fifteen inquiries from their interstate agents in this territory, for intrastate movements. (9) In a period of six months preceding March, 1939, applicant made 76 round trips on Highways U. S. #60, #80, and #99 east of Los Angeles and San Diego, including their interstate operations, handling 103 intrastate shipments moving from or to points in this area and Imperial Valley. (10)

Proposed Service North of Sacramento

Applicant's proposed service north of Sacramento is via Highway U. S. #99E by way of Marysville and via Highway U. S. #99W by way of Willows, and from the junction of these highways north to the California-Oregon border via Highway U. S. #99, together with lateral rights of thirty miles on each side of said highways. This

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(8) Exhibit No. 2.

(9) Exhibit No. 7.

(10) Exhibits Nos. 4 and 6.

enlargement is sought to be consolidated and unified with the operating rights now held by applicant as one transportation system.

There are no large residential communities in this area at the present time and it is highly improbable that a high load factor can be developed on intrastate traffic except in connection with interstate movements. The possibility of a local household goods carrier securing return tonnage on any long distance move within this territory is highly remote.

The population increase in recent years in this area is to a great extent in proportion to the increase in population in other parts of the state. In certain areas, such as the Redding-Shasta area, as a result of the construction of the Shasta Dam on the Sacramento River, there has been a large influx of workers and the construction of many new dwellings.

Witness Kendall testified that Bekins Van Lines, Inc., made 63 round trip schedules over Highways U. S. #99, #99E, and #99W north of Sacramento in a six-month period prior to March, 1959, in its interstate operations, transporting 85 shipments in intrastate commerce moving to and from points north of Sacramento. (11)

The shipments transported in applicant's interstate operation between points in California and the Pacific Northwest move in both directions in about equal quantities of tonnage, thus producing a high load factor and thereby reducing transportation costs on a per hundred weight basis. This operation should enable applicant to provide a regular intrastate service along this route through Northern California.

#### Alternate Routes

Applicant requests that the following routes be authorized as alternate routes only:

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(11) Exhibits Nos. 3 and 5.

Highway State Route #65 and #198 by way of Porterville and Visalia from Pamoso to the intersection of Highway State Route #198 with Highway U. S. #99.

Between Ventura and Castaic Junction via Highway State Route #126.

Between Gilroy and Califa via Highway State Route #152.

Between San Francisco and San Jose via Highway U. S. By-Pass #101.

Between Riverside and San Diego via Highway US. #395.

The record discloses that coincident with the improvement and construction of highways new territory has been developed and modern dwellings constructed. This has created public demand and necessity for the transportation of household goods and personal effects over alternate routes as proposed.

Proposed Commodity Description

The proposed report recommended the following commodity description:

"For the transportation of crated or uncrated household goods and personal effects and allied commodities, including property usually used in and about the household when a part of such household equipment or supply; furniture, fixtures, equipment, and the property usually used in a store, office, museum, institution, hospital, or other establishment, when a part of the equipment or supply of such store, office, museum, institution, hospital or other establishment, works of art, furniture, musical instruments, displays, exhibits and articles requiring specialized handling and equipment usually employed in the moving of household goods and effects."

Protestants to this application opposed the granting of any operative rights to applicant, as an extension or enlargement

of its existing rights, which would authorize applicant to transport new furniture, household goods, office or store fixtures and equipment, except when same were not intended for resale. Protestants proposed that in the event new furniture for purpose of resale was transported, the rates to be assessed by applicant should be not less than 200 per cent of the minimum rates of such commodities when crated, as prescribed by the Railroad Commission. (12) Applicant subscribed to this proposal.

It is stated in Section IV of application and Witness Kendall testified that applicant is called upon to transport new furniture, household goods, and personal effects commonly used in a household, when, or when about to become, a part of such household and not for the purpose of resale. The record further discloses that applicant is also called upon to transport new furniture, fixtures, and equipment commonly used in a store, office, museum, institution, hospital, or other establishment, when, or when about to become, a part of such store, office, museum, institution, hospital, or other establishment and not for resale purposes.

Applicant made no attempt to show public convenience or necessity for the transportation of new furniture, household goods, office or store fixtures and equipment from wholesalers to retailers, or such commodities when intended for the purpose of resale. In fact applicant's witness testified that it does not now give or expect to give such service.

With the above exceptions there is nothing of record to oppose the granting of this application. Lyon Van Lines, Inc., also appeared in this matter as did Pioneer Truck and Transfer Company, Hemsted Van Lines, and V. C. Collier, all of the above-named appearing as parties in support of the application.



Certificate de novo in lieu of existing certificates

The present operative rights of applicant restrict the transportation of commodities transported between Los Angeles and San Diego, and intermediate points, to commodities not intended for resale, and between Los Angeles and Serra, to secondhand (used) office furniture and equipment, household goods and personal effects. All other operative rights which applicant now possesses contain no restrictions as to the transportation of new furniture, household goods, office furniture and equipment.

The record discloses that applicant is established in business as a transportation company specializing in the moving of used household goods and personal effects from residence to residence, and the moving of used office furniture and equipment from office to office, or store to store, and that the transportation of new furniture, household goods and office equipment is incidental to the above transportation. Applicant has indicated in this record that it does not now serve or choose to enter the field of transporting new furniture for the purpose of resale and it would appear that applicant should be restricted to the class of transportation it holds itself out to serve the public. Furthermore, it is desirable from both the standpoint of the applicant and the general public that an in lieu certificate should be issued on a systemwide basis with uniform operative rights to include the enlargement of operations as hereinafter provided, thus clarifying tariff commodity description and simplifying relations between the applicant and the public generally.

F I N D I N G S

The Commission hereby finds as a fact that public convenience and necessity require the establishment and operation by Bekins Van Lines, Inc., of an automotive service as a highway common carrier as that term is defined in Section 2-3/4 of the Public

Utilities Act, for the transportation of household goods, furniture, fixtures and equipment as hereinafter specifically described, between the points and over the routes hereinafter specifically set forth, serving all intermediate points on said routes, and in addition thereto lateral rights within a distance of thirty miles on either side of the highways, as an extension and enlargement of applicant's existing rights and consolidated therewith.

It is hereby further found that public convenience and necessity require the applicant to perform an automotive transportation service over alternate routes in the territory now embraced within the thirty-mile lateral rights, between the points and over the routes hereinafter specifically set forth.

It is hereby further found that the consolidation, merger, and unification of all operative rights, including those herein granted, each with the other, in lieu of all prior rights or grants, be granted Bekins Van Lines, Inc., with the right of through service between termini and all intermediate points.

Bekins Van Lines, Inc., 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.

O R D E R

Public hearings having been held on the application of Bekins Van Lines, Inc., to consolidate the operating rights as heretofore granted by Decision No. 16456, as amended by Decision No. 27919, in Application No. 11108, and for a certificate of public

convenience and necessity, and for a de novo in lieu certificate of all operating rights, merging and unifying the same into a single operating system to establish through service between termini and all intermediate points, the matter having been duly submitted and the Commission now having been fully advised, and basing its order on the statements and findings of fact as set forth in the Opinion preceding this order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the granting of a certificate of public convenience and necessity to Bekins Van Lines, Inc., for the transportation of:

1. Used Household Goods, viz.: household or personal effects commonly used in a household, such as clothing, furniture, furnishings, radios, musical instruments, stoves and refrigerators;

2. Used Fixtures and Equipment, such as furniture, furnishings and other appurtenances commonly used in a store, office, museum, institution, hospital, or other establishment;

3. New Household Goods, Fixtures and Equipment as described in items 1 and 2, when not intended for purpose of resale;

I. over the following described routes, to wit:

Route No. 1 - Sacramento to Red Bluff via Highways U. S. #99E and #99W, Red Bluff to the California-Oregon State Line via Highway U. S. #99;

Route No. 2 - Los Angeles to the California-Arizona State Line via Highway U. S. #60, Los Angeles to El Centro, via Highway U. S. #99, San Diego to the California-Arizona State Line via Highway U. S. #80;

Route No. 3 - Paso Robles to Famoso via Highway State Route #41 and Highway U. S. #406, excluding therefrom that portion of the route which is now included in applicant's territorial operative rights.

All intermediate points to be served on said routes and, in addition thereto, lateral rights within a distance of thirty miles on either side of the highways, subject to restriction and limitations hereinafter set forth;

II. over the following routes as alternate routes only, to wit:

Alternate Route No. 1 - Famoso to the intersection of Highway State Route #65 and Highway State Route #198, via Highway State Route #65, thence via Highway State Route #198 to the intersection of Highway State Route #198 and Highway U. S. #99;

Alternate Route No. 2 - Ventura to Castaic Junction via Highway State Route #126;

Alternate Route No. 3 - Gilroy to Califa via Highway State Route #152;

Alternate Route No. 4 - Riverside to San Diego via Highway U. S. #395.

III. over the following described routes, that a certificate de novo be issued thereby consolidating, merging, and unifying said operating rights, each with the other, in lieu of all prior rights or grants and with the right of through service between termini and all intermediate points:

Route No. 1 - California-Oregon State Line to Red Bluff via Highway U. S. #99;

Red Bluff to Sacramento via Highway U. S. #99E;

Red Bluff to Davis Junction via Highway U. S. #99W;

Route No. 2 - San Francisco, Oakland, Vallejo to Sacramento via Highway U. S. #40;

Vallejo to Napa to Petaluma via Highway State Routes #29 and #12 to junction point south of Sonoma, unnumbered highway to Petaluma;

San Francisco and Oakland to Stockton and Manteca via Highway U. S. #50 and Highway State Route #120;

San Mateo to Highway U. S. #50 near Castro Valley via unnumbered highway, via San Francisco Bay (San Mateo Toll Bridge) and Mt. Eden and Hayward;

- Route No. 3 - Santa Rosa to San Diego via Highway U. S. #101;  
San Francisco to San Diego via Highway U. S. alternate #101;
- Route No. 4 - Sacramento to El Centro via Highway U. S. #99;
- Route No. 5 - Oakland to San Jose via Highway State Route #17;
- Route No. 6 - Paso Robles to Famoso via Highway State Route #41 and Highway U. S. #406;
- Route No. 7 - Los Angeles to Highway U. S. #99 near San Bernardino via Highway U. S. #66 and San Bernardino;  
Highway U. S. #99 near Pomona to Beaumont via Highway U. S. #60;  
Indio to Blythe and the California-Arizona State Line via Highways U. S. #60 and #70;
- Route No. 8 - San Diego to the California-Arizona State Line via Highway U. S. #80.

The above routes, 1 to 8 inclusive, to include the right to serve all intermediate points on each route and to pick up and deliver shipments in an area of thirty miles laterally from each of said highways on said routes; and including the right to pick up and deliver at any and all points within a radius of thirty miles of each of the following termini points: Santa Rosa, San Francisco, Oakland, San Diego, and El Centro.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Bekins Van Lines, Inc., 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 days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements and rules of the Railroad Commission conforming to the certificate herein granted.
- (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 days' notice to the Railroad Commission and the public, 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.

IT IS HEREBY FURTHER ORDERED that Decision No. 16456, as amended by Decision No. 27919, on Application No. 11108, be and the same are hereby revoked and annulled.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 16<sup>th</sup> day of April, 1940.

Ray S. Riley  
Frank P. Howard  
Arthur S. Coe  
 Commissioners