

ORIGINAL

Decision No. 36612

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of)
READER TRUCK LINES, a corporation, for)
a certificate of public convenience)
and necessity authorizing the transpor-) Application No. 26544
tation of property between the Los)
Angeles and Los Angeles Harbor Commercial)
Zones, on the one hand, and on the other,)
Hanford, Corcoran and other points in the)
west side of the San Joaquin Valley.)

ARTHUR H. GLANZ, for applicant.

HUGH GORDON and WYMAN C. KNAPP, for Pacific
Freight Lines, Pacific Freight Lines Express,
Valley Motor Lines, Inc., and Valley Express
Co., petitioners and protestants.

HAROLD FRASHER, for Valley Motor Lines, Inc. and
Valley Express Co., protestants.

EDWARD STERN, for Railway Express Agency, Incorpo-
rated, interested party.

WILLIAM F. BROOKS, for The Atchison, Topeka & Santa
Fe Railway Company and Santa Fe Transportation
Company, interested parties.

E. L. H. BISSINGER, for Southern Pacific Company
and Pacific Motor Trucking Company, interested
parties.

BART F. WADE and DON H. MOORE, for Asbury Transpor-
tation Co., interest-d party.

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

PHIL JACOBSON, in pro per, interested party.

GLENN GUSTAFSON, for Hanford Chamber of Commerce,
interested party.

BY THE COMMISSION:

INTERIM OPINION

This interim opinion relates solely to the motion of

protestants that the Commission postpone the taking of evidence upon the application until after the war, or at least so limit the testimony offered as to exclude reference to war conditions. An argument upon such motion was held before the Commission en banc at Los Angeles on May 24, 1945.

Reader Truck Lines, a corporation, seeks a certificate of public convenience and necessity, under Section 50-3/4, Public Utilities Act, authorizing operation as a highway common carrier for the transportation of general commodities between the Los Angeles and the Los Angeles Harbor Commercial Zones (as defined by the Interstate Commerce Commission in Los Angeles, California, Commercial Zones, 3 MCC 248), on the one hand, and, on the other hand, certain points in the San Joaquin Valley lying west of U. S. Highway No. 99 in the vicinity of Hanford, Lemoore and Corcoran. ⁽¹⁾ An overnight service would be provided, available daily excepting Sundays and holidays.

In support of its proposal, applicant alleges that the service proposed would be superior to that now offered by the carriers in the field. At present, it is stated, no direct overnight motor truck or rail service exists between the points involved. Since a period antedating the war, the rail service assertedly has required from three to four days for the movement from Los Angeles. The service provided by Pacific Freight Lines

(1) The San Joaquin Valley points which applicant proposes to serve comprise Hanford, Corcoran, Lemoore, Lemoore Air Field, Alpaugh, Angiola, Armona, Bowles, Burrel, Caruthers, Conejo, Grangeville, Guernsey, Hardwick, Hub, Lanare, Laton, Monmouth, Odessa, Paige, Raisin City, Riverdale, Stratford, Sunrise City, Waukena and Wheatville. Off-route points within a radius of 5 miles of each of the points specified (excepting points on U. S. Highway No. 99) would also be served. Except as noted, no intermediate points would be served.

and Valley Express Co., connecting at Fresno, is said to consume a minimum of 48 hours for the movement from Los Angeles, while freight handled by Pacific Motor Trucking Company, in conjunction with Southern Pacific Company, breaks bulk at Fresno or Tulare and is delivered in the territory mentioned on the following day. Assertedly, applicant has sufficient equipment, and is qualified financially and by experience, to conduct the operation.

A petition requesting a preliminary hearing was filed by certain protesting carriers now serving the territory, viz., Pacific Freight Lines, Pacific Freight Lines Express, Valley Motor Lines, Inc., and Valley Express Co. These protestants allege that the application is predicated upon the abnormal war conditions prevailing during the past four years; that because of shortages of equipment, repair parts and manpower, directly attributable to the war and beyond their control, they in common with other carriers have been seriously handicapped in rendering an expeditious transportation service; that notwithstanding their financial ability to provide an adequate service and their consistent efforts to improve their service, they have been prevented from so doing by wartime restrictions. An attempt to expedite the service between Los Angeles and the points involved, undertaken in 1943 with the Commission's sanction,⁽²⁾ is alleged to have failed because of inability to develop sufficient tonnage to permit compliance with orders of the Office of Defense Transportation governing the loading of trucks. Accordingly, protestants sought a preliminary hearing for the purpose of considering the effect of abnormal war conditions upon existing and proposed transportation service, and the type of evidence essential to establish

(2) Decision No. 36226, in Application No. 25496.

a public need for any new or additional service during the war period.

Protestants contend that the service currently provided by carriers should not be taken as the measure of the quality of service normally to be expected of them. They point to their greatly increased traffic directly attributable to the war effort, and to the deterioration in the quality of their present service when measured by pre-war standards, due to shortages of manpower and equipment, as well as by restrictive regulations designed to facilitate the conservation of labor and materials. Nevertheless, they assert, it may be anticipated that applicant, in support of his proposal, will offer testimony of shippers who will express dissatisfaction with the existing service. Should such testimony be received as material and relevant, protestants declare that the burden imposed upon them of answering such charges will consume time of their officers, as well as of shippers, that they can ill afford to spare in view of wartime demands.

Applicant contends that it can prove the existence of an urgent and continuing need for the establishment of the proposed service, a need which arose prior to the war and which, it properly may be assumed, would continue to exist thereafter. Proof of this nature, it is claimed, is sufficient to satisfy the requirements of the certificating statute.

The Commission is aware that since the outbreak of the war most carriers have been called upon to face many problems arising from wartime restrictions, labor shortages, and the need for devoting a large share of their facilities to the transportation of war materials. Judged by pre-war standards, the present

service often does not meet the normal requirements of the shipping public, nor can we reasonably assume that it would be typical of the service to be offered in the future.

Although the Commission has continued during the war period to grant certificates for new or enlarged highway carrier services, these for the most part have been uncontested applications and the need for the service appeared to be immediate and in furtherance of the war effort. In many instances the Commission has declared that the certificate granted must be deemed of temporary duration, the necessity for continued operation to be re-examined after the war. In a number of contested proceedings, hearings have been held in abeyance for the duration. Because of the increasing number of new applications being filed, as well as those which have been pending for some time, we consider it appropriate to clearly express our views upon issue thus raised in the instant proceeding.

While every applicant for a certificate of public convenience and necessity has the right to a hearing upon his application, the Commission may demand that he comply with all appropriate procedural requirements. The procedural standards which may have been applied at other times when determining whether public convenience and necessity justified the establishment of a new highway carrier service should not control our approach to the problem under present day transportation conditions.

We are of the opinion that during the continuance of wartime conditions our procedure should be so altered as to require a prompt and full revelation by the applicant of the basic facts upon which he proposes to show that public convenience and

necessity justify the establishment of an additional transportation service. The facts which an applicant intends to offer at the hearing can in large part be disclosed to the Commission prior to hearing. The Commission would then be in a position to more promptly judge whether applicant's showing is premised merely upon the inconveniences suffered by patrons of the existing carriers operating under wartime adversities, or is rested upon a claim of a real present or permanent need for the proposed service. The Commission should not now undertake to declare just what it will deem to be a sufficient showing to justify the granting of a certificate, whether the certificate be for a temporary or permanent service. Obviously, however, the Commission could not equitably grant a permanent certificate of public convenience and necessity where the showing of applicant is rested primarily upon the inadequacy of the services provided by the existing carriers when those inadequacies are largely the result of prevailing wartime conditions and limitations. Whether or not such a showing is sufficient to justify the granting of a certificate to continue only so long as war conditions prevail, must, of course, depend upon whether such a temporary service would serve a real need in furtherance of the war effort. Any temporary certificate of this character should confer authority to operate only during the continuance of war emergency conditions, and can give rise to no presumption that corresponding permanent authority would be granted at any future time.

Accordingly, it is our conclusion that the applicant in the proceeding at hand is entitled to be heard upon his application and that the hearing thereof should not be indefinitely postponed as requested by protestants. The application having been assigned to an Examiner to take the evidence on behalf of

the Commission, such Examiner will be expected to proceed with the hearing of the matter at such time as he may designate. However, the Examiner will be empowered to follow the procedure herein above outlined to the extent he may deem such procedure appropriate, with the view of obtaining without extended hearings upon the application, the facts upon which to make his recommendation to the Commission as to the disposition of this application.

INTERIM ORDER

A preliminary hearing having been had upon the above entitled application for the purpose of hearing argument upon the protestants' motion, and good cause appearing,

IT IS HEREBY ORDERED that the motion of protestants be and hereby is denied.

Dated at San Francisco, California, this 19th
day of June, 1945.

Harold Anderson
Justus F. Casper
Richard H. Hark
Francis W. Down
James L. Powell
COMMISSIONERS