

ORIGINAL

Decision No. 41470

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)	
upon the Commission's own motion)	
into the operations of all carriers)	Case No. 4823
of property for compensation subject)	
to the jurisdiction of the Commission.)	

(The appearances are listed in Appendix "B")

O P I N I O N

This proceeding was instituted on our own motion into the operations of all carriers of property subject to the Commission's jurisdiction. The purpose in undertaking the investigation was to determine (1) the scope and nature of the regulations which should henceforth be prescribed and enforced by the Commission in accordance with the authority now conferred upon it covering all classes of carriers of property, (2) the adequacy and efficiency of the service performed by the various classes of carriers and (3) the need for additional or amendatory legislation required to aid in the fostering of an adequate and economical transportation system within this State. The desirability of such action was apparent by reason of (a) the many changes in transportation conditions which occurred during the war and in the post war period and (b) the problems which must be met in providing a transportation system responsive to the present and future needs of our commerce.

During the early stages of the investigation it appeared that the most important phase of the situation requiring immediate attention was that relating to the transportation of property by highway carriers. Although evidence with respect to matters peculiar to other classes of carriers was sought, virtually all of the record pertains to conditions surrounding the operation of,

and movement of traffic by highway carriers.

Public hearings were held at a number of places throughout the state. Evidence was presented by numerous witnesses representing shippers, carriers and various organizations. Considerable data were also presented by the Commission's staff. Upon completion of the hearings, a proposed report was submitted by Examiners Warren K. Brown and George E. Howard, analyzing the evidence and containing certain recommendations. A copy of the report appears as Appendix "A" to this Opinion. Interested parties were invited to file such exceptions to the Examiners' proposals as they considered appropriate. In response to this suggestion only sixteen exceptions were received.

For-hire carriers engaged in the transportation of property over the highways of this State are composed of (1) common carriers which operate between fixed termini or over regular routes, (2) common carriers whose operations are not between fixed termini or over regular routes, (3) contract carriers and (4) city carriers.

The first group is governed by the provisions of the Public Utilities Act. A certificate of public convenience and necessity is required before commencing operations. Tariffs containing the rates and charges, as well as the rules and regulations under which shipments will be transported, must be published, filed and strictly abhered to. Rates may not be increased without making a showing that such increases are justified.

Highway common carriers which do not operate between fixed termini or over regular routes are subject to the Highway Carriers' Act (Stats. 1935, ch. 223, as amended). They may begin operations by securing a permit which is issued upon procuring adequate protection against liability as provided in the Act. Although required to observe as minima whatever minimum

rates may be established by the Commission, they do not file with the Commission their rates and charges. The same requirements govern contract carriers.

Carriers which operate within cities or towns, as distinguished from intercity operations, whether as common or contract carriers, are subject to the City Carriers' Act (Stats. 1935, ch. 312, as amended). The regulations governing city carriers are of the same nature as are provided for carriers which are subject to the Highway Carriers' Act.

The enactment of the 1935 statutes enlarged the Commission's jurisdiction over those classes of highway carriers not theretofore covered by the fixed termini or regular route definition contained in the Act of 1917 (Stats. 1917, Chapter 213, as amended), and now contained in Section 2-3/4 of the Public Utilities Act.

A review of the nature and extent of the operations of the several classes of highway carriers is set forth in the proposed report.

The Examiners reached the conclusion that regulation of highway carriers suffered unavoidably during the war period and constructive action should be taken in the public interest. For the purpose of correcting the situation, they submitted the following recommendations:

1. That each applicant for a radial highway common carrier permit hereafter be required to establish public convenience and necessity and to show his ability, experience and financial responsibility before his proposed operation is authorized.
2. That each applicant for a highway contract carrier permit hereafter be required to establish that his proposed operation will be in the public interest and to show his ability, experience and financial responsibility before such permit is issued.

3. That all radial highway common and highway contract carriers now holding permits be given "grandfather" rights to continue intrastate operations begun prior to a specific date (to be determined) upon proper proof of the character and extent of such operations.
4. That all radial highway common carriers be required to file with the Commission tariffs containing their rates, rules, regulations and charges, from which they cannot deviate without first obtaining authority from this Commission.
5. That all highway contract carriers be required to file with the Commission their contracts with the shippers they serve, which shall contain the rates and charges to be assessed for the transportation services provided, from which they cannot deviate without first obtaining authority from this Commission. More than ten contracts should be prima facie evidence of highway common carriage.
6. That carriers transporting agricultural products from the fields where grown to the packing sheds or processing plants be granted permits without being required to show public convenience and necessity or that their operations are in the public interest.

The reaction of the interested parties towards the Examiners' proposals were varied. Certain carrier organizations supported the proposals. Other suggested modifications largely for the purpose of developing the intent as to how the recommendations, if adopted, should be applied in specific cases. In some instances, the adoption of the recommendations was opposed by carriers of one class or other as being unnecessary or too restrictive. No unanimity of position was manifested by the shipping public or their organizations. Some were concerned with the task or anticipated

expense of carrying out the objectives which the proposals were calculated to bring about. Other groups urged that they, and the highway carriers whose services they utilize, should continue to enjoy the degree of freedom which may be exercised under existing conditions. We have given careful consideration to the divergent views which have thus been brought to our attention.

As the record shows and the Examiners pointed out, considerable instability surrounds the operation of radial highway common carriers. The turnover in the number of such operators is great. The carriers now operating under radial highway common carrier permits far outnumber those which operate between fixed termini or over regular routes under certificates of public convenience and necessity issued pursuant to the provisions of the Public Utilities Act. Moreover, the so-called radial carrier is at liberty to determine and change the territorial scope of his operations from time to time, increase or reduce his rates at will, subject only to the observance of those established by the Commission as minima. The regular route common carrier is bound by the terms of its certificate and the exact rates set forth in its published tariffs. Under present laws no clear authority is given to the Commission to control the entrance of radial common carriers into the field or to circumscribe the type or extent of the service performed, in order to prevent an oversupply of transportation, with a consequent increased burden upon the public in the form of higher transportation charges than otherwise would be necessary. The inequitable competitive situation frequently existing between the two classes of common carriers is obviously not in the public interest. No sound reason has been advanced why this difference in regulatory treatment should continue to exist. In our opinion, the control to be exercised over the operations, practices and rates of both

radial and fixed termini carriers should be the same, and a like degree of responsibility is essential to an economical and sound highway transportation system. It would appear that this, in part, may be accomplished by requiring radial highway common carriers to file tariffs with the Commission showing all of the rates, charges, classifications, rules, regulations, allowances and privileges they maintain for the transportation of property and for services incidental thereto. The radial carrier is now the preponderant highway carrier. Unless the Commission, the shipping public and others know with certainty what rates and charges this large group of common carriers is charging, the door is left open for them to create undue preference, prejudice and discrimination with all the evils flowing therefrom. Under present conditions, it would be contrary to the fundamental principles of sound regulation to permit any one group of common carriers to continue to maintain an unknown rate structure circumscribed only by the minima rates prescribed by the Commission. It is the view of the Commission that after further hearing rules and regulations relating to the filing of tariffs could be prescribed which would be beneficial to the shipping public and the carriers.

As hereinbefore stated, highway contract carriers are regulated in the same manner as radial highway common carriers. No restraint is imposed upon them with respect to the points they may serve. They charge such rates as are agreed upon with the shippers if not less than the minima prescribed by the Commission. We are also of the view that the reasons which justify more complete controls over the commencement of operations by radial common carriers and the scope of such operations are to a large extent present in the case of contract carriers.

Some of the parties filing exceptions to the Examiners' report agreed with the recommendation that contract carriers

should be required to file with the Commission copies of their contracts with the shippers they serve. Most of those who disagreed with the proposals did so because (a) they were of the impression that the contracts might become public records and, as such, become available for public inspection or (b) inasmuch as many contracts are oral it would not be practicable to make the requisite filings. Certain parties indicated a desire to continue to exercise complete freedom in the contracts they enter into, both as to the number of such contracts and the terms and conditions thereof.

We are convinced, however, that in order effectively to regulate contract carriers, it is necessary that the Public Utilities Commission have recourse to the contracts. These documents would serve two important purposes. They would constitute a readily available source of information concerning the carriers' operations enabling the Commission to determine the extent and nature of the service rendered, and to permit a comparison of the rates and charges set forth therein with those which have been prescribed as the minimum rates for the service to be performed thereunder. The desirability of making such comparisons arises both in connection with the enforcement of minimum rate orders and in ascertaining the "going" rates of the carriers when changes in existing minimum rates are under consideration. The necessity of such contract filings in the administration of the Interstate Commerce Act with respect to interstate carriers has been recognized by the Interstate Commerce Commission. (Filing of Contracts by Contract Carriers, 41 M.C.C. 527).

Certain parties excepted to the Examiners' recommendation that more than ten contracts should be considered as prima facie evidence of highway common carriage. The principal objections were that such a test would (a) restrict contract carriers in securing necessary tonnage, (b) prejudice small shippers and (c) be arbitrary. In the Commission's view the line of demarcation between the operations of one permitted to serve as a contract carrier and the one termed a common carrier depends upon the facts surrounding the particular service performed. As we understand the proposed report, this recommendation was designed as a means of placing permitted contract carriers on notice that the Commission will take steps to restrict this class of carriers within appropriate bounds so that each shall be permitted to perform only that type of transportation service which justifies the approval of a contract relationship between the shipper and the carrier with respect to the nature and extent of the service to be rendered and the charges applied. In the opinion of the Commission, the number of shippers thus served should not be accepted as the controlling factor in determining the kind and degree of regulation imposed. However, it is necessary that some presumption be applied to those who elect to engage in this type of transportation service.

Such exceptions as were made to the recommendation that carriers transporting agricultural products from the fields where grown to packing sheds or processing plants be granted permits without showing public convenience and necessity or that their operations are in the public interest were based upon the contention that the proposed exemption was not broad enough. It was contended that other perishables should be included. One of the parties questioned the sufficiency of the justification urged for according these carriers special treatment. We are inclined to the view that the showing required to justify the issuance of certificates and permits involving the transportation of agricultural products embraces a matter of

administrative discretion rather than a legislative problem. The Public Utilities Act authorizes this Commission to issue certificates of public convenience and necessity with or without a hearing. The degree of proof now necessary before a certificate will be issued is contingent upon the facts and circumstances in each case. It is not believed that the administrative processes which may be provided for in the event that the recommendations made are adopted will hinder the rendition of adequate service for the transportation of agricultural products.

In view of all the facts and circumstances of record in this proceeding, the Commission is of the opinion and finds:

I. That undesirable conditions exist in the property highway carrier industry in the State of California which have a material bearing on the future economy of the State and exert a detrimental effect upon the shipping public as well as transportation companies doing business in this State.

II. That the provisions of existing regulatory statutes governing highway carriers should be amended so as to permit the Commission to impose appropriate regulatory controls upon all types of transportation services as demanded by present day conditions.

III. That for the purpose of providing effective regulation essential to the creation and preservation of an adequate and efficient system of highway transportation for the carriage of property, legislation should be enacted at the earliest practicable date amending existing laws in the following particulars:

- (a) By extending the provisions of the Public Utilities Act now applicable only to carriers operating between fixed termini or over regular routes so as to include all radial highway common carriers at present subject to the Highway Carriers' Act and those city carriers now subject to the City Carriers' Act, operating as common carriers.
- (b) By amending the present Highway Carriers' Act and City Carriers' Act, respectively, to apply only to those operating as contract carriers,

and to provide further that each applicant for a permit shall hereafter be required to establish that his proposed operation will be in the public interest and to show that he possesses adequate ability, experience and financial responsibility to conduct such operation before such permit is issued.

(c) By providing that all persons operating on April 1, 1948, and continuously thereafter under permits issued by this Commission, shall be issued a permit or certificate authorizing them to continue their operations, subject to the following conditions:

1. That they make application for a permit or a certificate, whichever appropriately applies to the service to be continued, within sixty days from the date the proposed amendments become effective.
2. That said application be accompanied by proof in the form of an affidavit that applicants were actually conducting the service covered by the application within a period of twelve months prior to April 1, 1948.

IV. That, in the administration of the provisions of the Highway Carriers' Act, the Commission henceforth should require those holding permits to operate to make filings with the Commission as follows:

(a) Each contract carrier subject to the Highway Carriers' Act shall be required to file with the Commission a true copy of each contract and of any amendment thereto entered into with shippers for whom services are to be performed. Such contracts, or amendments, should mutually bind the carrier to transport and the shipper to supply a specific category of freight and be definite as to the time involved in the performance of the contract, the route and/or termini and/or area involved in the performance of the contract, the kind of commodity or commodities involved, the tonnage to be hauled and the actual rates and charges to be paid and received for the services to be performed thereunder. The contracts, or any terms or conditions thereof will not be made public by the Commission except as a part of the record in a formal proceeding when it considers such action consistent with the public interest.

- (b) That each radial highway common carrier as defined in the Highway Carriers' Act, shall be required to file with the Commission tariffs showing all of the rates, charges, classifications, rules, regulations, allowances and privileges it maintains for the transportation of property and for accessorial services incidental thereto.

V. That the existence of ten or more contracts by a highway contract carrier subject to the Highway Carriers' Act shall hereafter be deemed to be prima facie evidence of highway common carriage.

The order instituting this proceeding will be continued in effect in order that other matters within the scope of the investigation may receive the Commission's attention as the occasion therefor may appear to be necessary or advisable. The entry of a definitive order is not necessary at this time, but hearings will be scheduled forthwith for the purpose of considering the rules and regulations to be established for observance by the carriers in filing tariffs and contracts in accordance with the findings herein. An order directing compliance with these findings will be entered at the time the rules and regulations governing the preparation and filing of said tariffs and contracts are prescribed.

Dated at San Francisco, California, this
13th day of April, 1948.

R. Z. Dunderman
Justus F. Gallivan
Robert S. Powell
Angela B. Hull
Harriet Potter
 COMMISSIONERS

REPORT THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation upon)
the Commission's own motion into the)
operations of all carriers of property) Case No. 4823
for compensation subject to the juris-)
diction of the Commission.)

(APPEARANCES - See attached list)

PROPOSED REPORT OF EXAMINERS WARREN K. BROWN and GEORGE E. HOWARD

This case was instituted on the Commission's own motion March 26, 1946, to inquire into the operations of all carriers of property in California subject to the Commission's jurisdiction. The investigation was undertaken for several reasons, chief among them, being the need to review the effectiveness of present regulations and the impact, of what may be termed, the war period on transportation conditions in the state. The Commission's purpose in this proceeding was to find the facts and then to recommend such regulatory changes as seemed fitting to safeguard the general public interest.

Preliminary hearings were held in Los Angeles and San Francisco on June 26 and 28, 1946, respectively. Certain factual data were presented by the Commission's staff showing the evolution and development of freight transportation in California. A letter was sent to all persons, firms and associations believed to be concerned with this matter advising them of the nature and scope of the proceeding and inviting them to appear and participate therein. Fifteen hearings were held throughout the state at locations designed to afford parties an opportunity to attend and present

their evidence at a conveniently situated place. One hundred and sixteen appearances were entered. Fifty witnesses testified, including shippers, carriers, farmers, representatives of chambers of commerce, trade associations, farmers' groups and shippers' and carriers' associations. Their testimony was supplemented by exhibits and oral evidence presented by members of the Commission's staff. Much of the latter was based on returns to questionnaires sent to some 3000 representative shippers and to approximately 8500 for-hire carriers of property in California. In addition, traffic checks taken over a period of years by the California Department of Public Works, Division of Highways, as well as field checks made by the Commission's staff for this proceeding, were used in compiling data presented at the hearings. It is not deemed necessary to discuss this volume of evidence in detail. Instead a summary of the more significant testimony and exhibits will be undertaken.

Evidence submitted by the Commission's staff showed that as of August 31, 1946, there were 15,597 permitted carriers holding 20,243 permits and approximately 400 certificated carriers. There were outstanding as of that date 12,904 Radial Highway Common Carrier permits, 2,367 Highway Contract Carrier permits⁽¹⁾ and 4,972 City Carrier permits. Radial permits comprised about 63-3/4% of the total. During the first seven months of 1946, 6,182 permits were revoked; 67.6% of these had been in effect only a year or less. The reasons for the revocation of permits were enumerated. Lack of sufficient revenue to remain in business is

(1) Although the term "Contract Carrier" has been used for many years, one hauling property for-hire under a bona fide contract or contracts is a private carrier (Frost v. Railroad Commission 271 U. S. 583).

the basic cause. Although the number of permits revoked has been substantial, it has been exceeded materially by the number issued. During the first eight months of 1946, 10,305 permits were issued and 6,777 were revoked. While the increase in the number of permitted carriers as of June 30, 1946, was 28.75% greater than for June 30, 1945, the gross operating revenue received by all carriers in the state during that period increased less than 1%.

During the war period the number of permitted carriers increased enormously, while the certificated carriers showed a negligible increase. On June 30, 1943, there were 8561 permitted carriers. The number steadily increased during the ensuing years until it reached an all-time high of 16,250 on December 31, 1946.

Classification of carriers by amounts of gross revenue reported to the Commission shows that approximately 55% of the carriers received less than \$5,000 per annum in gross revenues from motor carrier operation. This group accounted for only 5.58% of the total gross revenue reported. Contrasted with this, the group of carriers with receipts in excess of \$100,000 each, which represented but 3.71% of the carriers reporting, accounted for 57.29% of the total gross revenue.

The data obtained from the field traffic checks made by the Commission's staff were expanded to an annual basis. The results thus developed gave an indication of the tonnage moving in 1946 between certain centers of population in California and the type of carrier transporting it. The amount of freight moved varies with the size and character of the territory involved, as does the proportionate percentage hauled by each type of carrier.

Using the expanded basis referred to above, it is estimated that 1,103,800 tons of freight moved during 1946 between the metropolitan areas of Los Angeles and San Francisco by highway. Of such total, it was estimated that permitted carriers hauled 82.3%, certificated carriers transported 14.6% and proprietary carriers moved 2.9%. The weight figures shown do not reflect tonnages of bulk petroleum and other bulk products, livestock, used household goods and property transported in dump trucks, as they were excluded when the field checks were made. The rail movement of freight between the Los Angeles and San Francisco areas during the period covered by the highway carrier figures was estimated to be 534,311 tons with 493,344 tons being carload traffic and 40,967 tons less than carload shipments.

Some evidence was introduced into the record indicating the amount of property transported under sub-haul arrangements. Such agreements are made between for-hire carriers rather than between shippers and carriers. The sub-hauler must comply with statutory permit and insurance provisions, but his compensation is based upon agreement with the principal or "over-lying" carrier instead of upon minimum rates. It was found that the amount of property moved by sub-haulers varied with locality and commodity from a high of 56% to a low of 14% of all property transported.

Considerable evidence is in the record respecting the movement of agricultural products. When fruits and vegetables are ready for use prompt handling from fields to packing or processing plants is required. This results in extremely heavy demands for transportation facilities during the season, with little need for carriers at other times. Often there are not enough certificated

or permitted carriers available to adequately transport the products at peak season; hence unregulated resident haulers have been used. The latter may be farmers or merchants owning small trucks for their own use who haul fruits and vegetables during the seasonal rush only. The transportation service performed by such local haulers collectively is vital for effective marketing of agricultural crops. However, the amount hauled by each individually may not yield a sufficient return to make it profitable for such carriers to maintain the insurance required by the Highway Carriers' Act and to pay the permit and gross receipt fees entailed.

One exhibit received in evidence purported to show the significant features of highway carrier regulations in all states having such laws, except Delaware and New Jersey. It is seen from this exhibit that most states recognize three types or classes of carriers: common carriers operating between fixed termini or over regular routes; common carriers not operating between fixed termini or over regular routes; and contract carriers serving only individual shippers.

Besides the factual evidence, the record contains numerous statements, criticisms and recommendations reflecting the views of the witnesses or those whom they represented. A wide divergence of opinion as to the effectiveness of present regulations and practices was expressed. The variation, as might be expected, was influenced or colored to some degree by the special interest of those who testified. The suggestions ranged from those which urged that no change be made in existing regulations to those which advocated drastic revisions in the present laws and policies. The reluctance or failure of many carriers to testify in this matter, which vitally

concerned them, was noticeable and regrettable. The principal recommendations for affirmative action, paraphrased, are as follows:

1. Radial highway common carriers should be required to show that public convenience and necessity require their proposed operation before being authorized to inaugurate such service.

2. Highway contract carriers should be required to show that their proposed operation will be in the public interest before being authorized to engage in such business.

3. Radial highway common and highway contract carriers should be given "grandfather" rights to continue intrastate operations begun prior to an appropriate "grandfather" date.

4. Radial highway common carriers should be required to file tariffs with the Commission.

5. Highway contract carriers should be required to operate under written contracts with shippers specifying the exact rates to be charged and such contracts should be filed with the Commission.

6. The movement of agricultural products from the field to the packing sheds or processing plants should be transportation exempt from regulation.

7. Before being authorized to operate, all carriers seeking permits should be required to specify the nature and extent of their proposed operations and to show their ability, experience and financial responsibility.

8. The filing fee for carriers seeking permits should be increased substantially but the annual renewal fee should be reduced.

9. Minimum rates should be set by the Commission for transportation performed under sub-haul arrangements.

10. The number of permits issued by the Commission should be restricted so that the number of permitted carriers will be limited.

11. All fees which carriers are required to pay to state, county and municipal governments should be collected by the Commission.

12. Transfer of permits, upon a proper showing of cause therefor, should be authorized.

13. The distinction between radial highway common carriers and highway contract carriers should be clarified.

14. The Commission should supervise safety regulations on the highways insofar as for-hire carriers are concerned.

15. Shippers should be kept currently advised as to whether carriers' permits and insurance are in effect.

16. Existing regulations should be more actively enforced.

17. Operations of city carriers should not be based on political boundaries.

Although the above suggestions were made by witnesses familiar with certain phases of transportation conditions and problems in this state, it does not appear that some of such regulations would be beneficial or proper changes in the present regulatory status.

For example, enforcement of safety regulations on the highways is a matter which should be left to the California Highway Patrol. It is implemented and trained to conduct such functions.

Collection by the Commission of all fees assessed against carriers by governmental subdivisions would be wholly impracticable as well as unconstitutional.

To keep shippers currently advised as to whether the permits and insurance of all carriers are in effect would be a

costly and difficult task. The value of such an undertaking seems negligible. A shipper may obtain such information at any time about a particular carrier by communicating with the Commission.

Confining city carrier operations to political boundaries appears to be the only feasible method of delineating the service area of such carriers.

Radial highway common carriers and highway contract carriers are defined by exclusion in the statute. The radial carrier is readily understood as one who dedicates his services to the public or a portion thereof, but not between fixed termini or over regular routes. The line of demarcation between a contract carrier and a common carrier never has been clearly defined. In Re Cochran, 38 C.R.C. 285, the Commission held that the carrier under investigation who hauled for nine shippers was a highway common carrier. In Coronado Transfer et al. v. United Parcel Service of San Diego, 31 C.R.C. 208, the Commission found that defendant, which furnished delivery service to 30 selected shippers, was not a highway common carrier.

The manner in which a contract carrier offers his services should be the basic factor in determining the legality of his operations (Southern California Freight Lines v. Thorkildsen,⁽²⁾ Decision No. 40337, May 27, 1947, and Re Morris,⁽²⁾ Decision No. 40330, May 27, 1947). The Commission is constantly receiving complaints against alleged illegal contract operators. The burden this places upon the Commission is extremely heavy. We believe effective

(2) Commissioner Rowel dissenting.

enforcement can be obtained only by placing upon the apparent illegal operator the burden of proving his operations are legal. We recommend that either the Commission, if it has the power, or, if not, the legislature, make it a prima facie case of highway common carriage if an operator has more than 10 contracts or agreements in force at any one time.

During the war period, enforcement was relaxed for numerous reasons. The need to have war materials move expeditiously, imposition of the Office of Defense Transportation regulations and loss of Commission personnel to the services, all contributed. Now, however, the above factors have ceased to exist. The Commission is acquiring additional enforcement personnel and effective regulation should be accomplished.

Several of the suggested changes are designed to stabilize permitted carrier operation. It is admittedly desirable to achieve more permanency generally in this type of transportation. All of the recommendations need not be adopted, however, as many would be obviated if a more embracing and incisive procedural policy were followed before permits were issued.

Establishment by the Commission of minimum rates for transportation performed pursuant to sub-haul arrangements would be purposeless if all common carriers were required to file tariffs and all highway contract carriers were required to file contracts containing their rates and charges. Such suggestions appear to be mutually exclusive.

Full consideration of the record in this proceeding, having in mind the transportation conditions in California resulting from the war, lead to the conclusion that certain changes in the present regulatory practices should be made. Amendments to existing statutes might well be considered also.

Too many carriers are seeking permits without mature consideration of the possibilities of successful operation and without weighing the responsibilities entailed in rendering for-hire service. Often this results in unsatisfactory public service and financial loss to the carrier. Consequently it becomes necessary for the Commission continuously to revoke a large number of permits. It is believed that if applicants for permits must show that public convenience and necessity or public interest require their proposed operation, more stability will result in the transportation field generally. This will be beneficial to the individual carrier as well as to the public. Those who apply for permits as part of their showing should demonstrate their ability, experience and financial responsibility.

Some provision for continuance of present permitted carrier operations should be made. Many carriers expanded during the war period and they were encouraged to do so by various factors, well known. Opportunity to legalize present operations should be afforded through some type of appropriate "grandfather" provision.

Radial highway common and highway contract carriers are required to observe the minimum rates set by the Commission and published in various Highway Carriers' Tariffs. Such carriers may charge more than the prescribed minimum rates. It is not known in

many instances whether the minimum rates are the going rates for particular movements. To avoid this uncertainty and to inform the shipping public it is deemed advisable to require radial highway common carriers to file tariffs with the Commission and to compel highway contract carriers to file their contracts with the Commission covering the charges they assess. They should not be permitted to deviate from their filed tariffs or contracts without first obtaining authority from the Commission.

The seasonal fluctuations in the movement of agricultural products resulting in extremely heavy demands for transportation at peak periods in order to effectively market crops, appears to warrant the immediate granting of permits without establishing public convenience and necessity or showing that their operations are in the public interest.

Believing that regulation of highway freight carriage for-hire suffered unavoidably during the war period and that constructive action now must be taken by the Commission in the public interest, the following recommendations are made:

1. That each applicant for a radial highway common carrier permit hereafter be required to establish public convenience and necessity and to show his ability, experience and financial responsibility before his proposed operation is authorized.

2. That each applicant for a highway contract carrier permit hereafter be required to establish that his proposed operation will be in the public interest and to show his ability, experience and financial responsibility before such permit is issued.

3. That all radial highway common and highway contract

carriers now holding permits be given "grandfather" rights to continue intrastate operations begun prior to a specific date (to be determined) upon proper proof of the character and extent of such operations.

4. That all radial highway common carriers be required to file with the Commission tariffs containing their rates, rules, regulations and charges, from which they cannot deviate without first obtaining authority from this Commission.

5. That all highway contract carriers be required to file with the Commission their contracts with the shippers they serve, which shall contain the rates and charges to be assessed for the transportation services provided, from which they cannot deviate without first obtaining authority from this Commission. More than ten contracts should be prima facie evidence of highway common carriage.

6. That carriers transporting agricultural products from the fields where grown to the packing sheds or processing plants be granted permits without being required to show public convenience and necessity, or that their operations are in the public interest.

We recommend that the foregoing be adopted as the opinion of the Commission in the instant proceeding.

Dated at San Francisco, California, this 15th day of July, 1947.

(Signed) Warren K. Brown

WARREN K. BROWN

(Signed) George E. Howard

GEORGE E. HOWARD

APPEARANCES:

R. E. Adams, in propria persona

Elmer Ahl, in propria persona

Case 4823 - Appendix "B"

Gwyn H. Baker, for Gilboy Company and Gilboy Company
of Los Angeles

J. W. Barker, for United Van and Storage Association, Inc.

Willard Barr, Secretary-Manager, Truck and Warehouse
Association

George S. Beach, for Libby, McNeill & Libby

Berol & Handler, by Edward M. Berol, for Truck Owners
Association of California and Tank Truck Operators
Association

Russell Bevans, for Draymen's Association of San Francisco

E. L. H. Bissinger, for Southern Pacific Company, Pacific
Motor Trucking Company and Pacific Electric Railway
Company

E. O. Blackman, for California Dump Truck Owners Association

Harold J. Blaine, for California Van & Storage Association

B. F. Bolling, for Pioneer Division, The Flintkote Company

E. B. Bolz and A. H. May, for Western Union Telegraph
Company

Douglas Brookman, for California Motor Express, Ltd.,
Marin-Sonoma

Cliff Brooks, for Delivery Service Company

Neil E. Brown, Chairman, Shippers Committee, San Diego
Chamber of Commerce

D. P. Bryant, for Bekins Van Lines, Inc., Bekins
Van & Storage Company

A. D. Carleton and H. L. Gunnison, for Standard Oil
Company of California

V. A. Carroll, for San Francisco Storage Co.

Howard T. Clemens, in propria persona

Jim Cummins, for Market Street Van & Storage

Preston Davis, for United Parcel Service of Los Angeles,
Inc., United Parcel Service Bay District, and Red
Arrow Bonded Messenger Corporation

John W. Desch, for Pacific Southwest Freight Tariff Bureau

J. J. Deuel and Edson Abel, for California Farm
Bureau Federation

Wallace K. Downey, for Pacific Freight Lines, Pacific
Freight Lines Express

L. L. Drake, for Schuel & Company, Inc.

Frank B. Durkee, for Department of Public Works, State
of California

T. R. Dwyer, for Delta Lines, Inc.

Scott Elder, for Western Transport Company

Joseph T. Enright, for Monolith Portland Cement Company

C. F. Fannama, Vice President and General Manager, and
Gibson, Dunn and Crutcher, by Woodward M. Taylor,
for Wilmington Transportation Co.

P. E. Foote, for Butane Transport Company

Emuel J. Forman, for Los Angeles Traffic Managers Conference

Aaron H. Glickman, for Johnson Truck Lines, M & W Truck Line,
Bay Cities Transportation Co., Santa Cruz Motor Express,
Inc., and Security Truck Line

Hugh Gordon and Wyman C. Knapp, for System Freight Service,
System Freight Express, Valley Motor Lines, Valley
Express Co., The Neal Storage Company

John M. Gregory, Boris H. Lakusta and Grant L. Malquist,
of the Commission's staff

John A. Grimes and F. W. Kerrigan, for Kraft Foods Company

Lloyd R. Guerra, for Western Truck Lines, Ltd.

William Guthrie, for California Portland Cement Company

Marvin Handler, for The Truck Owners Association of California

James E. Harris and W. C. Stone, for Sacramento Chamber
of Commerce

E. E. Hart, for Draymen's Association of Alameda County
and Pacific Motor Tariff Bureau

John E. Hennessy, for The Western Pacific Railroad Company,
Sacramento Northern Railway, Tidewater Southern
Railway Company, The Oakland Terminal Railway,
Alameda Belt Line

William Horan, in propria persona

John E. Hunt, for Goodman Delivery Service, Auto Purchasing
Agency, Charles Van & Storage, Pony Express

George T. Hurst, for Atchison, Topeka & Santa Fe Railway
Co. and Santa Fe Transportation Company

Phil Jacobsen, in propria persona, Spl. Service Trps. -
G. F. D. Lines

Ray James, for James Transfer & Storage Co., James Van
Lines and San Jose Moving and Storage Co.

Willard S. Johnson, for Hills Transportation Company

M. Kays, in propria persona

Leonard R. Keith, for California Packing Corporation and
Canners League of California

F. P. Kensinger, for M. J. B. and Western Can Company

E. E. King, in propria persona

Wyman C. Knapp, for California Van and Storage Association
and United Van and Storage Association

Theodore J. Label, for Baker & Hamilton

A. Larsson, for Larsson Traffic Service, for certain lumber shippers by truck, and for Scott Lumber Company

Joe Laver, in propria persona

H. A. Lincoln and Donn W. Wilson, for Fibreboard Products, Inc.

G. E. Lowe, for Kaiser Co., Inc.

J. E. Lyons, for Southern Pacific Company and Pacific Motor Trucking Company

E. A. Maher, for Automotive Council of Orange County

Robert J. Marsh, for Cannery League of California

Frederick W. Mielko, for Delta Lines, Inc.

Charles C. Miller, for Monterey Bay Draymen's Association

W. O. Narry and R. T. Hunt, for Richfield Oil Company

J. A. Nevil, for Nevil Storage and Yellowway Van Lines, Inc.

W. G. O'Barr and K. L. Vore for Los Angeles Chamber of Commerce

Casey O'Brien, in propria persona

John A. O'Connell and R. F. Ahern, for Rosenberg Bros., & Company, Dried Fruit Association of California

George J. Olsen, for Dunham, Carrigan and Hayden Company

O'Melveny and Myers, by L. M. Wright, for Riverside Cement Company

Llewellyn M. Parlette, for Western Traffic Conference

W. E. Paul, for Union Oil Company of California

Arlo D. Poe, for Motor Truck Association of Southern California

Eugene A. Read, for Oakland Chamber of Commerce

J. D. Reardon and W. E. Paul, for Union Oil Company of California

F. C. Rebham, O'Melveny & Myers and L. M. Wright, for Ventura County Railway

E. H. Riley, in propria persona

Joseph Robertson, for Highway Transport, Inc.

Walter A. Rohde, for San Francisco Chamber of Commerce

James L. Long, for S & W Fine Foods, Inc.

Herbert A. Rusk, for B. F. Riner, dba Riner Motor Express

A. L. Russell, for Sears Roebuck & Company

R. A. Schwarting, for The American Tobacco Company, Pacific Coast Branch

David G. Shearer, for The Trucking Industry, Inc.

Leo E. Sievert and William F. Brooks; Allan P. Matthew and Roland J. Henning, for Santa Fe Transportation Company, and Atchison, Topeka & Santa Fe Railway Company

J. C. Simpson, for Wholesale Fruit and Produce Dealers Association of San Francisco

George C. Smith, for Smith Transportation Company

Thomas R. Speakman, for Owens-Illinois Glass Co.

F. W. Steel, for Western Pacific Railroad Company, Sacramento Northern Railway

W. A. Steiger and E. J. Bischoff, for Southern California Freight Lines

Edward Stern, for Railway Express Agency

D. A. Stromsco, for Southern Pipe and Casing Company

Roy B. Thompson, for Truck Owners Association of California

Ray E. Untereiner, for Charles P. Hart Transportation Company

Reginald L. Vaughan, Varnum Paul and John C. Lyons, for Pacific Motor Tariff Bureau, California Warehousemen's Association, Clark Bros., Motor Transport System, Coast Line Truck Service, Inc., and Airline Freight Lines, Inc.

M. T. Vineyard - Vineyard & Owens Motor Freight Accountants, for Certificated and Radial Highway Carrier Clients

W. D. Wall, for W. D. Wall Traffic Service

E. J. Wasson, for Central Highway Freight Service Bureau

R. E. Wedekind and J. E. Hennessy, for California Railroad Association

R. E. Wedekind, J. E. Lyons and William Meinhold, for Southern Pacific Company and Pacific Motor Trucking Company

C. A. Wigley, in propria persona

E. G. Williams, for Grocery Distributors Association

Louis H. Walters, for Golden State Company, Inc.