

Decision No. 41549

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
NORMAN WEISSER and VICTOR WEISSER for)
certificate of public convenience and)
necessity to operate a truck service,) Application No. 28636
as a common carrier, between a portion)
of San Diego County and the City of)
Los Angeles, California.)

Thomas M. Hamilton for applicant. H. P. Merry for Southern
California Freight Lines and Southern California Freight Forwarders,
protestants.

O P I N I O N

Applicants, Norman Weisser and Victor Weisser, copartners,
seek authority herein to operate as a common carrier by motor
vehicle, in the transportation of fresh fruits, vegetables, and
produce, between points and places in San Diego County within ten
(10) miles of the post office in National City, on the one hand,
and on the other, points and places within three (3) miles of First
and Spring Streets in the City of Los Angeles.

Public hearing was held before Examiner Syphers at San
Diego on November 5, 1947, at which time evidence was presented
and the case submitted. The parties were allowed thirty (30) days
to file concurrent briefs.

Before any decision was issued by the Commission, the
applicants herein filed a petition to set aside submission. A
rehearing was held at San Diego before Commissioner Potter and

Examiner Syphers on March 25, 1946. The matter was again submitted and is now ready for decision.

Various witnesses testified that the area around Chula Vista was a truck gardening area, principally consisting of small farms of from two to ten acres. The principal market is Los Angeles and the produce and vegetables must be trucked there at night so as to be available for the early morning buying. These witnesses included the Mayor of Chula Vista, a landowner, and two farmers from the area. In addition, there was a stipulation entered into between the parties, to the effect that three other farmers would testify that they grow produce in the area and ship to Los Angeles by Weisser trucks.

Applicants maintain a dock in Chula Vista but do not have a dock in Los Angeles inasmuch as they make their deliveries direct to the Los Angeles produce market. They presently own and operate four trucks, two Diesel tractors, and three trailers. In addition, they lease four tractors and four trailers.

Protestants, Southern California Freight Lines and Southern California Freight Forwarders, presently have highway common carrier authority between Los Angeles and the San Diego area, as well as numerous other points. They contend they are able and willing to haul all of the produce from the Chula Vista area. While it is true that these protestants have a large amount of trucking equipment, we cannot ignore the fact that they do not maintain a dock in Chula Vista, and in order to avail themselves of protestants' services, the farmers would

have to get in touch with protestants' San Diego office.

In the hauling of produce, the farmers require trucks to make pickups at their fields and to make deliveries at the market with as little delay as possible. The produce must arrive at the Los Angeles market very early in the morning; thus most of the hauling must be done at night.

A fair view of the testimony presented herein impels the conclusion that there is a need for the hauling of produce from the Chula Vista area to Los Angeles. Chula Vista is approximately the center point of the area which applicant proposes to serve. While protestants operate a large number of trucks in the area, they are essentially general freight haulers. Furthermore, they do not offer the type of service in the Chula Vista area that the farmers require. So, for the hauling of produce from the Chula Vista area, we are favorably disposed towards applicants' proposal. However, it is noted that the application covers an area within ten (10) miles of the post office in National City. Such an area would include territory to the north of National City for which no showing was made at the hearing. Therefore, a northern boundary limit of California State Highway No. 94 should be set.

Upon full consideration of the matter, we are of the opinion that the proposed operation is in the public interest and, therefore, the application, as modified by a northern boundary limit as hereinabove set out, will be granted.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Norman Weisser and Victor Weisser, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of fresh fruits, vegetables, and produce from points and places in San Diego County, south of California State Highway No. 94, and within ten (10) miles of the post office in National City, on the one hand, to points and places within three (3) miles of First and Spring Streets in the City of Los Angeles, on the other, and empty containers in the reverse direction.

(2) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

- (a) 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.
- (b) Applicant shall, within sixty (60) days from the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, establish the service herein authorized and comply with the provisions of

General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

(c) Subject to the authority of this Commission to change or modify such at any time, Norman Weisser and Victor Weisser shall conduct said highway common carrier service over and along the following described routes:

1. within the described areas over and along any and all available and appropriate public streets and highways;
2. between the described areas over and along U. S. Highways Nos. 101 and 101 Alternate.

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

Dated at Los Angeles, California, this 4th day of May, 1948.

A. E. Johnson
Justus S. Calver
August Lowell
Harold A. Kula
Kenneth Potter
COMMISSIONERS