

Decision No. 41996**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
 of F. E. CAREY, doing business as  
 CAREY TRUCK LINE, for a certificate  
 of public convenience and necessity  
 to operate an automobile truck  
 service as a highway common carrier  
 for the transportation of oil-, water-,  
 and gas-well outfits and supplies,  
 heavy machinery, pipe, steel, tanks,  
 and related articles, between Los  
 Angeles, Newport Beach, San Luis  
 Obispo, Mendota, and intermediate  
 and off-route points.

Application No. 25817

Wallace L. Ware for applicant; Bart F. Wade for Asbury  
 Transportation Co., Gordon & Knapp, by Hugh Gordon and Sanford A.  
Waugh, for Pacific Freight Lines and Pacific Freight Lines  
 Express, E. L. H. Bissinger for Southern Pacific Company, Frederic  
A. Jacobus for The Atchison, Topeka & Santa Fe Railway Company,  
R. Edward Burton for Valley Motor Lines, Valley Express Company,  
 and Reader Truck Lines, protestants; Edward M. Berol for Fortier  
 Transportation Company, interested party.

O P I N I O N

Applicant herein, F. E. Carey, doing business as Carey  
 Truck Line, seeks a certificate of public convenience and necessity,  
 under Section 50 3/4 of the Public Utilities Act, authorizing opera-  
 tions as a highway common carrier in the transportation of speci-  
 fied commodities<sup>(1)</sup> between Los Angeles Zone 1<sup>(2)</sup>, on the one hand,

(1) Oil-, water-, or gas-well outfits and supplies, heavy machinery,  
 pipe, steel, tanks, and machinery, materials, equipment, sup-  
 plies and facilities used in, incidental to, or in connection

(2) See Distance Table No. 3, Appendix A to Decision No. 31605,  
 dated December 27, 1938, as amended, in Case No. 4246.

and on the other, points in the three principal oil-field areas in Southern California commonly known as the Midway, Bakersfield, and Coastal areas, and between points in those three oil-field areas, all of which transportation is proposed to be performed over specified routes<sup>(3)</sup>.

Public hearings were held before Examiner Syphers at Los Angeles on January 28, 29, and 30, February 3 and 5, March 15, 17, and 18, 1948. On these dates evidence was adduced and on the last-named date the case was submitted.

F. E. Carey testified that he had been operating a trucking business since 1938, and for about eight years prior to that he had been employed as a truck driver by various companies. From 1938 until October of 1942 he transported oil-field supplies and equipment as a city carrier and a highway contract carrier. In October, 1942, he discontinued his trucking business because of an Office of Defense Transportation ruling restricting over-the-road shipments, turned his customers over to Asbury Transportation Company, and leased two trucks to a plant doing war work. In November of 1944 Carey obtained city, radial highway common carrier, and

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- (1) cont'd  
with (a) the discovery, development, production, and preservation of natural gas and petroleum; (b) construction, operation, repair, servicing, dismantling, and maintenance of pipe lines; (c) construction, operation, repair, servicing, dismantling and maintenance of facilities for the storage of natural gas, gasoline and petroleum; and (d) construction, operation, repair, servicing, dismantling and maintenance of plants and facilities for refining, recycling, processing, repressuring and blending of gasoline, natural gas, and petroleum.
- (3) Exhibit A, attached to the application, sets out these routes in detail.

(4)  
highway contract carrier permits and resumed the hauling of oil-field supplies and equipment.

Applicant owns one trucking unit, a tractor and semi-trailer combination, and leases 13 other units. Ten of these are tractor-semi-trailer combinations used in line hauling, one is a 10-wheel truck and the other two are used as pickup trucks. These leased trucks are driven by the owners or by drivers selected by the owners, subject to the approval of Carey. Carey maintains an office force which handles all of the billing and other bookkeeping in connection with the hauling performed by the leased trucks. The administrative and overhead expenses are paid by Carey.

The lease arrangements are maintained under authority of Order No. EM-T 16, issued by this Commission on February 2, 1943, under the terms of which motor truck carriers may lease vehicles together with the services of drivers. This order was enacted for a period during the existing National emergency and until further order of the Commission. Applicant testified that he intends to purchase his own equipment should Order No. EM-T 16 be revoked, by borrowing \$50,000 which he expects to pay back out of earnings of the business.

Carey rents a terminal at 3107 East 26th Street which, at present, is the only terminal used in the business. He testified that other terminals would be established if they were needed.

As to the applicant's financial ability to conduct the proposed operations, there was introduced in evidence Exhibit No. 1,

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(4) Radial Highway Common Carrier Permit No. 19-19515, Highway Contract Carrier Permit No. 19-19516, and City Carrier Permit No. 19-19517.

an operating and expense statement for the period January 1, 1947, to December 31, 1947; Exhibit No. 2, a profit statement for the same period, and Exhibit No. 3, a balance sheet as of December 31, 1947. A fair analysis of these exhibits, together with the testimony presented, both by Mr. Carey and his bookkeeper, indicate that his operations have been moderately successful. The net profit for the year 1947 was shown to be \$7,212.52. For the year 1946 the net profit was \$631.41. This last figure is contained in Exhibit No. 4 which was a profit and loss statement for applicant company for the year 1946 and the first three months of 1947. Applicant's net worth, as of December 31, 1947, was shown by Exhibit No. 3 to be \$63,590.09.

The rates proposed by applicant are set forth in a proposed tariff attached to the application and designated as Exhibit No. B. Testimony as to these proposed rates brought out the fact that they cover numerous commodities, including, in addition to oil-field machinery and supplies, such items as groceries. The record shows that applicant intends to haul all commodities shipped by oil-well supply companies, which could be handled on the equipment ordinarily used by applicant in this service. The rates proposed in Exhibit No. B attached to the application appeared to be comparable to existing rates for similar commodities in the area.

Fourteen public witnesses testified on behalf of applicant in this proceeding. The substance of this testimony is to the effect that all of these witnesses, representing various oil-field supply companies, are now using applicant's services, that they find these services satisfactory and desire to continue using them. In some cases they indicate they would give applicant additional business should he obtain authority to operate as a common carrier. This additional business would largely stem from

C.O.D. shipments and from hauls to oil fields in the vicinity of Los Angeles Harbor and south of that area. These witnesses, almost unitedly, praised applicant's service, testifying that he delivered merchandise promptly and handled the shipments in a very reliable manner. According to this testimony, it is desirable in the oil fields to obtain prompt delivery of shipments. There are a good many shipments of specialized oil tools which are used in cases of emergency when a well breaks down. These tools must be delivered as promptly as possible. Carey Truck Line has been supplying a service in this respect which was commended highly.

The shipper witnesses also pointed out some dissatisfactions which they had with the existing common carriers; however, an analysis of these dissatisfactions indicates that most of them occurred during the war years. Most of the shipper witnesses do not use, and have not used, the services of existing carriers, other than applicant, for delivery of their oil-field supplies in expedited movements during the past two years.

There are existing common carriers providing service to the areas which applicant desires to serve. These include Asbury Transportation Company, Pacific Freight Lines, Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway Company, and Reader Truck Lines. According to the testimony presented by these protestants, and in particular by Asbury Transportation Company, the existing carriers are ready, willing and able to handle all the oil-field shipments tendered them. This testimony included evidence as to the existing terminals and equipment operated and maintained by these carriers in connection with oil-field hauling.

On behalf of the protestants, 10 shipper witnesses were called, representing the various oil-field supply and oil companies. The testimony of these witnesses was largely confined to the hauling of protestant Asbury Transportation Company. They testified that this company was performing satisfactory hauling in the area and meeting the requirements of the shippers as to oil-field hauling.

Protestants, in their brief, contend that the working and driving hours maintained by applicant and his subhaulers are in violation of the Commission's General Order No. 93-A. However, this order is applicable only to passenger stage corporations and highway common carriers as defined by the Public Utilities Act.

A fair view of all the testimony presented in this case indicates certain conclusions of fact which we now summarize.

Applicant is an existing highway carrier operating under authority of the Highway Carriers' Act, and is providing service to the oil fields which is satisfactory to the shippers and which is a needed specialized service. Applicant has been able to provide expedited deliveries at the times, and to the places, desired by the shippers. From this record there is apparently no question that applicant has performed to the entire satisfaction of the shippers with whom he has dealt.

The existing common carriers are large and well-established carriers having terminals throughout the area and a large number of pieces of equipment. However, their services have not been satisfactory to those shippers needing a specialized service such as here proposed by applicant.

From a careful review of all the testimony presented in this record, and of the briefs submitted by the parties, we are of the opinion and hereby find that public convenience and necessity

justify the proposed operation. Strict compliance with General Order No. 93-A will be required.

F. E. Carey is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

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 F. E. Carey, 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 property, along the routes and between the points hereinafter specified, subject to the following limitation:

Applicant's service shall be limited to the transportation of oil-, water-, or gas-well outfits and supplies, heavy machinery, pipe, steel, tanks and machinery, materials, equipment, supplies and facilities used in, incidental to, or in connection with (a) the discovery, development, production and preservation of natural gas and petroleum; (b) construction, operation, repair, servicing, dismantling, and maintenance of pipe lines; (c) construction, operation, repair, servicing, dismantling and maintenance of facilities for the storage of natural gas, gasoline and petroleum; and (d) construction, operation, repair, servicing, dismantling and maintenance of plants and facilities for refining, recycling, processing, repressuring and blending of gasoline, natural gas and petroleum.

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

- (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, F. E. Carey shall conduct said highway common carrier service between the following points and over the following routes:

Between Los Angeles<sup>(1)</sup> and Newport Beach

Via U. S. Highway 6, Alameda Street or Long Beach Boulevard to junction with U. S. Highway 101 Alternate, thence via U. S. Highway 101 Alternate, or

Via U. S. Highway 101 or via California State Highway 10 to junction with Harbor Boulevard (in Anaheim), thence via Harbor Boulevard to junction with California State Highway 55, thence via California State Highway 55.

Between Los Angeles and San Luis Obispo

Via Washington Boulevard, or via California State Highway 26, or via U. S. Highway 66 to junction with U. S. Highway 101 Alternate, thence via U. S. Highway 101 to Alternate to junction with U. S. Highway 101, thence via U. S. Highway 101, or

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(1) Where the description "Los Angeles" is used, it refers to that area of Los Angeles and Los Angeles County located within the Los Angeles Zone 1, as described in Cal. P.U.C. Highway Carrier's Distance Table No. 3, and as per Cal. P.U.C. Decision No. 31605, as amended.



Via U. S. Highway 101, or

Via U. S. Highway 6 to junction with California State Highway 118, thence California State Highway 118 to junction with U. S. Highway 101, thence via U. S. Highway 101.

(3) Between Las Cruces and Santa Maria

Via California State Highway 1

(4) Between Santa Paula and Buellton

Via California State Highway 150

(5) Between Castaic Junction and Ventura

Via California State Highway 126

(6) Between Los Angeles and Mendota

Via U. S. Highway 99 to junction with U. S. Highway 466, thence via U. S. Highway 466 to junction with California State Highway 33, thence via California State Highway 33, or

Via U. S. Highway 99 to junction with California State Highway 166, thence via California State Highway 166 to junction with California State Highway 33, thence via California State Highway 33

(7) Between Castaic and Gorman <sup>(2)</sup>

Via Old Ridge Route via Sandbergs

(8) Between junction of U. S. Highways 6 and 99 (near Newhall) and Bakersfield <sup>(2)</sup>

Via U. S. Highway 6 to junction with U. S. Highway 466, thence via U. S. Highway 466

(9) Between Greenfield and Taft

Via U. S. Highway 399

(10) Between Bakersfield and McKittrick

Via California State Highway 178

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- (2) Route for operating convenience only and the provisions of intermediate and off-route application do not apply in connection with points on these routes beyond the fifteen-mile limit from other operated routes.

(11) Between Devils Den and Oilfields

Via County Road to junction with California State Highway 41, thence via California State Highway 41 to junction with California State Highway 198, thence via California State Highway 198

Service from and to all intermediate and off-route points located within a radius of 15 miles laterally of Highway routes and beyond terminal points shown, except as noted by Note 2, with right to operate between points on one route and points on another route as a single consolidated operative right.

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

Dated at San Francisco, California, this 31<sup>st</sup> day of August, 1948.

R. F. Indurana  
Frank Russell  
Samuel Potter

COMMISSIONERS