

ORIGINAL

Decision No. 44034

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WALTER F. PETERS and MYRON D. PETERS,)
a copartnership, doing business as)
PETERS TRUCK LINES, for a certificate)
to operate a truck service as a high-)
way common carrier between San Fran-)
cisco, San Leandro, Alameda, Oakland,)
Berkeley, Albany, El Cerrito, Richmond)
and Sacramento, on the one hand, and)
from the southern boundary of Castella)
to Hilt, on the other hand, including)
intermediate points between Castella)
and Hilt on U. S. Highway 99 and the)
off route points of Fort Jones, Etna,)
Greenview and Montague, and all points)
intermediate thereto.)

Application No. 30007

- Marquam C. George, for applicant.
- J. P. Correia, for Yreka Western Railroad Company.
- Frank Loughran, for Yreka Western Railroad Company,
Oregon-Nevada-California Fast Freight, Inc.,
Bekins Van Lines, Inc., and Lyon Van and
Storage Co., protestants.
- W. A. Gregory, Jr., William Meinhold, Roy Jerome, for
Southern Pacific Company and Pacific Motor
Trucking Company, protestants.
- Jackson W. Kendall, for Bekins Van Lines, protestant.
- Marvin Handler, for Bekins Van Lines, Inc., and Lyon
Van Lines, Inc., protestants.

O P I N I O N

This is an application by Walter F. Peters and Myron D. Peters, partners, doing business as Peters Truck Lines, for a certificate of public convenience and necessity authorizing operation as a highway common carrier for the transportation of general commodities between San Francisco, South San Francisco, San Leandro, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Albany, El Cerrito, Richmond, San Pablo, Sacramento and North Sacramento, on the one hand, and from the southern boundary of

Castella to Hilt, on U. S. Highway 99, and the off-route points of Fort Jones, Etna, Greenview, Montague, Grenada and Edgewood, and all points intermediate thereto, on the other hand. The routes to be followed are set forth in paragraph VI of the application, as amended.

The original application was filed on January 31, 1949, by Fred W. Peters, Walter F. Peters and Myron D. Peters as co-partners. During the course of the proceedings, Fred W. Peters died, and the two remaining partners filed an amendment to the application requesting that the name of Fred W. Peters be deleted wherever it appeared in the original application. The application is, therefore, that of the surviving partners only.

Hearings were held by Examiner Gannon at Yreka, Weed, Sacramento and San Francisco and the matter was submitted on briefs.

Walter Peters, testifying for the applicants, stated that he started in the trucking business in Yreka in 1929. The business is now conducted by the two brothers, with Walter Peters acting in the capacity of manager. At present the operation is conducted under a permit chiefly confined to points and routes set forth in the application. Terminal facilities presently are maintained at Yreka, Sacramento and San Francisco. The West Berkeley Express performs the pickup and delivery service in Oakland and vicinity with its own equipment. Bonded Draying Service, through a working agreement with applicant, performs a similar service in San Francisco. Applicant testified that pick-up and delivery service is proposed in the entire Bay Area and Sacramento. He has no equipment in the Bay Area designed for that purpose but will rely on

the service of those two carriers, both of whom are certificated. Exhibit B of the application lists the equipment available, including three tractors and four trailers. It is planned to install a terminal at Mt. Shasta. Exhibit A sets forth the time schedule which applicant proposes to follow should the application be granted. Overnight service is proposed between all of the points served. Northbound, applicant would leave San Francisco at 5:30 p.m., Oakland at 6:30 p.m., Sacramento at 10 p.m. and arrive at Yreka at 9:45 the following morning. Southbound he would leave Yreka at 4:30 p.m. and arrive at Sacramento at 3 a.m., Oakland at 7:30 a.m., and San Francisco at 9:20 the next morning. The off-route points of Etna, Fort Jones, Hilt, Montague, Greenview, Grenada, and Edgewood will be served "on call". Applicant proposes no intermediate service between any points south of the southern boundary of Castella. At the commencement of the service it is proposed to operate one piece of equipment each way daily.

At present there is available for the operation three line haul tractors, four trucks, three van type semi-trailers and one flat rack. Under the proposed operation there will be two trucks located in Yreka to perform pick-up and delivery service, one truck at Mt. Shasta, and one at Sacramento. Pick-up and delivery service in the entire East Bay Area will be performed with the equipment of West Berkeley Express which is sufficient to take care of the business. In San Francisco pick-up and delivery service will be performed by Bonded Draying Service. That briefly describes the proposal of applicants from an operating standpoint.

Applicants called approximately 45 public witnesses, drawn from most of the points involved herein, whose testimony affords a fairly dependable cross-section of the service presently rendered by the applicants and the need for additional service. The testimony of these witnesses, taken by and large, follows the line of testimony usually given in similar proceedings. Witnesses from Yreka, Weed, Etna and Fort Jones, as well as from minor points in the area, were perfectly satisfied with Peters' present service. Some of them used Oregon-Nevada-California and Pacific Motor Trucking and were satisfied in a lesser degree. A witness from Yreka testified that he had not received satisfactory overnight service from any of the existing common carriers. Another witness stated he received no better than two to three days' service. Rail service was inordinately slow. There was some complaint of spoilage and damage to shipments, which consisted of a diversity of commodities requiring, in some instances, as much as five days en route. There was also some complaint of delay in the matter of overnight service, though the preponderance of testimony was to the effect that consignees were getting overnight deliveries from applicants. The consensus appeared to be that present users are satisfied with Peters' service and would continue to use it. Several of the witnesses appeared to be of the opinion that quantity of service was at least as desirable as quality.

The application was protested by Pacific Motor Trucking Company, Yreka Western Railroad Company and Oregon-Nevada-California Fast Freight, Inc.

Oregon-Nevada-California Fast Freight, Inc. is the existing certificated trucking service, and maintains a fleet of

29 pieces of pick-up and delivery equipment in the Bay Area. Pacific Motor Trucking, which serves the area by a combination of rail and truck service, likewise maintains a fleet in the Bay region.

Yreka Western Railroad Company operates between Yreka and Montague, a distance of eight miles, and transports shipments from the Southern Pacific line at Montague to Yreka. It experienced a loss in its operating revenue in the five months ending May 31, 1949, as against a similar period in 1948. This rail line, in conjunction with the Southern Pacific Company and Pacific Motor Trucking Company, provides a service throughout the area with second day delivery.

Oregon-Nevada-California Fast Freight performs a through single line truck service with overnight delivery to all points except Etna and Fort Jones, which points are served jointly by Oregon-Nevada-California and Yreka Western Railroad, with overnight
(1)
service.

Approximately 30 public witnesses testified for the protestants. The character of their testimony varies little from that of applicants' witnesses. A large majority of these witnesses used either Pacific Motor Trucking or Oregon-Nevada-California, or

(1) Bekins Van Lines, Inc. and Lyon Van Lines, Inc. filed a memorandum brief protesting the granting of the application unless applicant is precluded from transporting uncrated household goods and related commodities. With the exception of the testimony of Mrs. Thelma Barnes, who claimed to have made a single shipment, there is no showing in the record of a need for additional carriers to transport uncrated household goods, and her testimony is negated by her inability to produce proof that a written order was given by her to Bekins Van Lines, as required by Highway Carriers' Tariff No. 4. The order will therefore include such a restriction.

both, and pronounced them satisfactory. Witnesses from Yreka, Fort Jones, Hornbrook, Dunsmuir, Weed and Sacramento stated they had no need for an additional certificated carrier. There was some complaint that Pacific Motor Trucking was slow, but it was pointed out that Oregon-Nevada-California was available with faster service, if desired.

Protestants rely on three reasons for a denial of the application: (1) that applicants have not established its ability to perform the proposed service, (2) that public convenience and necessity do not require the service, and (3) that granting of the application will cause the presently available service to depreciate. No substantial proof of (1) and (3) was offered. As to (2), the record is clear that public convenience and necessity require the proposed service.

It is clear from the record that there is need for an additional dependable service in the area of the type proposed by applicants. That is obvious from the testimony of 45 shipper-witnesses who were not in most instances satisfied with the present service. Oregon-Nevada-California is the only common carrier truck service and it does not consistently supply overnight service. Southern Pacific, and its subsidiary Pacific Motor Trucking, affords second morning delivery. Protestants acknowledge this situation by offering the services of Oregon-Nevada-California when faster service is required.

Upon a review of the record herein we find that applicants have offered sufficient proof to sustain a finding of public convenience and necessity for the proposed service, and the

(2)
Application will therefore be granted.

O R D E R

Public hearing having been held in the above entitled proceeding, evidence having been received, the matter having been submitted, and the Commission being fully advised,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Walter F. Peters and Myron D. Peters, authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property between San Francisco, South San Francisco, Oakland, Berkeley, Alameda, San Leandro, Albany, El Cerrito, Richmond, Piedmont, Emeryville, San Pablo, Sacramento, and North Sacramento, on the one hand, and, on the other hand, from the southern boundary of Castella to Hilt, including all intermediate points between Castella and Hilt on U. S. Highway 99, and the off-route points of Fort Jones, Etna, Greenview, Montague, Grenada, Edgewood and all points intermediate thereto. Said certificate herein granted is subject to the following restriction:

Applicants may not transport household goods and related commodities.

(2) Protestants, in their brief, aver that applicants are presently conducting an unlawful operation in that they are rendering a highway common carrier service in the area in which they seek to be certificated. There is no evidence in the record to substantiate a claim of illegal operation, either wholly or in part, nor are the findings of the Commission in this proceeding in any respect inconsistent with Decision No. 42646, in Case No. 4823.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- a. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days after the effective date hereof.
- b. Within sixty (60) days after the effective date hereof and on not less than five (5) days' notice to the Commission and the public, applicants shall 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, appropriate tariffs and time tables.
- c. Subject to the authority of this Commission to change or modify them by further order, applicants shall conduct operations pursuant to the certificate herein granted over and along the following routes:

From South San Francisco to San Francisco over U. S. 101.

From San Francisco to Oakland via the San Francisco Bay Bridge.

From Oakland to San Leandro via State Highway 17.

From Oakland to Alameda via any and all available roads.

From Oakland to Berkeley via any and all available roads.

From Berkeley to Albany via U. S. 40.

From Albany to El Cerrito over U. S. 40.

From El Cerrito to Richmond via U. S. 40.

From Richmond to Sacramento over U. S. 40.

From Sacramento to North Sacramento via U. S. 40.

From Sacramento to Castella via U. S. 40, U. S. 99 and U. S. 99-W.

From Castella to the Oregon State Line via U. S. 99.

From Yreka to Etna via State Highway 82.

From Yreka to Montague via State Highway 82.

From Hornbrook to Hilt via U. S. 99 and unnumbered county road.

From U. S. 99 north of Weed, to its intersection with an unnumbered County Road, thence to Edgewood.

From U. S. 99 south of Yreka to its intersection with an unnumbered County Road, thence along unnumbered County Road to Grenada.

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

Dated at San Francisco, California, this 11th day of April, 1950.

R. E. Johnson
Justice J. C. ...
Justice H. ...
Harold ...
Francis H. ...
COMMISSIONERS