

ORIGINAL

Decision No. 44229

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 GEORGE C. WIEDEMAN and FERN P. WIEDEMAN, )  
 copartners, doing business under the )  
 firm name and style of BROOMCRIST AND )  
 WIEDEMAN, for a certificate of public )  
 convenience and necessity to operate an )  
 automobile truck service as a highway )  
 common carrier for the transportation of )  
 general commodities, with certain excep- )  
 tions, between San Bernardino, Colton, )  
 Riverside, Fontana, Kaiser, and Rialto, )  
 California, on one hand, and Desert Hot )  
 Springs, Palm Springs, Indian Wells, )  
 Indio, Thermal, Mecca, Desert Center, )  
 Blythe, Fertilila, Midland, Freda, Rice, )  
 Sarp, Parker Dam, Whipple, Victorville, )  
 Barstow, Yermo, Daggett, Ludlow, Amboy, )  
 Needles, Adelanto, Beechers, Red Mountain, )  
 Randsburg, Johannesburg, Trona, Searles, )  
 Rademacher, Terese, Inyokern, and Ridge- )  
 crest, California, and intermediate points, )  
 on the other hand. )

Application No. 30879  
As Amended

F. W. Turcotte and Jack O. Goldsmith, by F. W. Turcotte  
 for applicant and for Palo Verde Chamber of Commerce, intervenor.  
W. A. Steiger and Oscar Goldberg for Southern California Freight  
 Lines and Southern California Freight Forwarders, Arthur Glanz  
 and R. Y. Schureman for L. L. Mockenhaupt dba Victorville-Barstow  
 Truck Lines, Donald Murchison for Pacific Freight Lines and for  
 Pacific Freight Lines Express, Robert W. Walker and Frederick A.  
Jacobus for The Atchison, Topeka and Santa Fe Railroad Company  
 and for Santa Fe Transportation Company, and Lloyd A. Guerra for  
 Western Truck Lines, protestants.

O P I N I O N

Applicants George C. Wiedeman and Fern P. Wiedeman,  
 copartners doing business under the name and style of Broomcrist  
 and Wiedeman, seek authority to operate as a highway common carrier,  
 as that term is defined in Section 2 3/4 of the Public Utilities

Act, for the transportation of general commodities, with certain enumerated exceptions such as uncrated household goods, uncrated, unpacked, and unwrapped new furniture, livestock, commodities in bulk, articles of extraordinary values, commodities injurious or contaminating to other lading, dangerous explosives, and commodities which require special equipment other than refrigeration, (1) between San Bernardino, Colton, Riverside, Fontana, Kaiser, and Rialto, on one hand, and on the other, (a) Beaumont, Banning, Desert Hot Springs, Indian Wells, Indio, Coachella, Thermal, Arabia, and Mecca; (b) Freda, Boulder Well, Rice, Crommet, Vidal, Earp, Parker Dam, and Whipple; (c) Kaiser Mine, Desert Center, Hopkins' Well, Blythe, Fertility, Cox, and Midlands; (d) Newberry, Ludlow, Amboy, Chambless, Mountain Spring, Java, and Needles; and (e) Adelanto, Beechers, Atolia, Red Mountain, Johannesburg, Randsburg, Westend, Argus, Trona, Searles, Rademacher, Terese, Inyokern, China Lake, and Ridgecrest, serving all intermediate points, but with no service between San Bernardino and Daggett; (2) between Barstow, on one hand, and on the other, Newberry, Ludlow, Amboy, Chambless, Mountain Springs, Java, and Needles, serving all intermediate points, but with no service at any point between Barstow and Daggett; and (3) for the transportation of automotive parts, accessories, materials, and supplies between Barstow, on one hand, and on the other, Daggett and Yermo.

Public hearings were held for a total of eight days before Examiner Rowe during January and February, 1950, in San Bernardino, and during April, 1950, in Blythe. Oral and documentary evidence was adduced and the matter was submitted for decision.

Some 40 public witnesses testified for applicant, most of them representing wholesale houses, distributors, manufacturers, and processors in and around San Bernardino. For several years, applicants have served the aforementioned points as permitted carriers in

conjunction with deliveries of produce sold by their wholesale business conducted in San Bernardino. Other public witnesses testified as to public need for the proposed services to outlying districts. While the volume of freight over most of the proposed routes is not large, because of sparse population in the mountain and desert areas, still the public need for this traffic movement is imperative. No other line serves most of these outlying areas. It would not be profitable for applicants to serve many of these points solely as common carriers, nor solely as wholesale dealers in produce; but, by combining the two operations, applicants can operate profitably and, at the same time, serve the public convenience and necessity.

Protestants serving the area, including Beaumont, Banning, Palm Springs, Indio, and other nearby communities, proved their service to be generally adequate and efficient; however, they have not adequately performed the service of delivering meats and other foods requiring refrigeration. Some customers indicated a desire for Saturday deliveries as offered by applicant; however, many receivers of freight preferred no weekend deliveries.

Protestant Victorville-Barstow Truck Line withdrew from the proceeding when the application was amended to eliminate service between the San Bernardino area and Victorville, Barstow, and Daggett. Other protestants proved that, except for the carriage of frozen foods, meats, and other articles requiring refrigeration, there exists no public convenience and necessity to be served by permitting operations into Beaumont, Banning, Indio, Palm Springs, and Cathedral City.

Western Truck Lines offered ample evidence to support its claim that no additional freight service by truck was required to Blythe. To further divide the inconsequential freight movement into that city would have a tendency to make the present common carrier service of Western Truck Lines to that area so unprofitable as to

render their present good service no longer feasible. There is not enough freight to be carried to justify granting authority for an additional service.

After full consideration of the record in this proceeding, the Commission finds that public convenience and necessity require establishment and operation of the service proposed by applicant with the exceptions and restrictions above indicated. In all other respects the Commission finds that the application of this carrier should, and it will therefore be, denied.

George C. Wiedeman and Fern P. Wiedeman are, and each of them is, hereby placed upon notice that operating 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

Public hearings having been held in the above-entitled proceeding, the matter having been submitted, the evidence having been fully considered by the Commission, and basing this order upon the record and the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity, authorizing operation as a highway common carrier, as defined in

Section 2 3/4 of the Public Utilities Act, be, and it hereby is, granted to George C. Wiedeman and Fern P. Wiedeman, copartners doing business under the firm name of Broomcrist and Wiedeman, for the transportation of general commodities, with the following exceptions:

- (a) Uncrated household goods
- (b) Livestock
- (c) Commodities in bulk
- (d) Articles of extraordinary value
- (e) Commodities injurious or contaminating to other lading
- (f) Uncrated, unpacked, and unwrapped new furniture
- (g) Dangerous explosives
- (h) Commodities requiring special equipment other than refrigeration

between the following points:

1. San Bernardino, Colton, Riverside, Fontana, Kaiser, and Rialto, California, on one hand; and
  - a. Beaumont, Banning, Desert Hot Springs, Palm Springs Station, Palm Springs, Indian Wells, Indio, Coachella, Thermal, Arabia, and Mecca, California, and all points intermediate between Beaumont and Mecca.
  - b. Boulder Well, Freda, Rice, Grommet, Vidal, Earp, Parker Dam, and Whipple, California, and all points intermediate between Indio, on the one hand, and Parker Dam and Vidal, on the other hand.
  - c. Kaiser Mine, Desert Center, Hopkins' Well, Fertilla, Cox, and Midland, California, and all points intermediate between Indio and Midland.
  - d. Newberry, Ludlow, Amboy, Chambless, Mountain Springs, Java, and Needles, California, and all intermediate points between Daggett and Needles, but with no service at any point between San Bernardino and Daggett.
  - e. Adelanto, Beechers, Atolia, Red Mountain, Johannesburg, Randsburg, Westend, Argus, Trona, Searles, Rademacher, Terese, Inyokern, China Lake, and Ridgecrest, and all points intermediate between U. S. Highway 66 and Ridgecrest or between U. S. Highway 66 and Trona.

2. Barstow, California, on one hand, and Needles, California, on the other hand, and all intermediate points, but with no service at any point between Barstow and Daggett.
3. For the transportation of automotive parts, accessories, materials, and supplies, only, between Barstow, on the one hand, and Daggett and Yermo, on the other hand. The above certificate of public convenience and necessity shall be subject to the following restrictions:
  - a. Applicant shall not pick up or deliver freight within the city of Blythe nor within three miles from the city limits of said city.
  - b. Applicant shall not pick up or deliver freight within the cities of Beaumont, Banning, Palm Springs, Indio, or Cathedral City, nor within three miles from city limits of any of said cities or communities other than freight consisting of meat, frozen food, and other freight requiring refrigeration.

(2) That, in the operation of the common carrier service pursuant to the foregoing certificate, applicants shall conform with and observe the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicant 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, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, George C. Wiedeman and Fern P. Wiedeman, copartners, shall conduct said highway common carrier operation over and along the following routes:
  1. Over U. S. Highway No. 66 between San Bernardino and Colton, and over State Highway No. 18 between Colton and Riverside.

2. Over Arrow Route through Rialto and Fontana and Cherry Avenue between Arrow Route and Kaiser.
3. Over U. S. Highway No. 99 between Sierra Avenue and Garnet.
4. From U. S. Highway No. 99 along State Highway No. 111 to Mecca.
5. Between Palm Springs through Garnet over unnumbered highways to Desert Hot Springs.
6. From Indio over U. S. Highways Nos. 60 and 70 to Desert Center, thence via unnumbered public highway through Freda, Rice, Grommet, Earp, and Whipple to Parker Dam, California.
7. From the intersection of the unnumbered public highway between Freda and Earp over U. S. Highway No. 95 to Vidal.
8. From U. S. Highways Nos. 60 and 70 at a point approximately three miles west of Desert Center along an unnumbered public highway to Kaiser Mine and from said starting point along said U. S. Highways Nos. 60 and 70 to Blythe thence via unnumbered public highway through Fertilla and Cox to Midland, California.
9. From said U. S. Highway No. 66 along U. S. Highway No. 395 through Adelanto, Beechers, Atolia, and Red Mountain to Johannesburg and Randsburg, thence from Johannesburg over an unnumbered public highway through Westend to Trena.
10. From Daggett over U. S. Highway No. 66 to Needles.
11. From San Bernardino over U. S. Highway No. 66 to Daggett, thence over unnumbered public highway to Yermo, thence over U. S. Highway No. 466 to Barstow.
12. From Johannesburg over U. S. Highway No. 395 to Inyokern, thence over unnumbered public highway through Ridgecrest to U. S. Highway No. 395 at a point approximately midway between Terese and Rademacher.

Applicant may operate in either direction over any of the above-described routes.

(3) Except as herein authorized, Application No. 30879, as amended, is hereby denied.

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

Dated at San Francisco, California, this 23rd day of May, 1950.

R. F. Anderson  
Justin J. Green  
James H. Hall  
Harold P. Kelly

COMMISSIONERS

Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.