

ORIGINAL

Decision No. 45790

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the)
operations and practices of A. D.) Case No. 5144
WOOLLEY and RALPH E. WOOLLEY, doing)
business as Western Transport Co.)

Scott Elder, for Respondent.
Boris H. Lakusta, for Field Division, Public Utilities
Commission of the State of California.

O P I N I O N

This proceeding was instituted upon the Commission's own motion to determine whether A. D. Woolley and Ralph E. Woolley, hereinafter called respondents, have operated, since June 20, 1949, as a highway common carrier without prior authority, in violation of Section 50-3/4 of the Public Utilities Act.

A public hearing was held on May 16, 1951, at San Francisco before Examiner Silverhart, and the matter submitted.

Respondents own, control, operate or manage auto trucks used in the transportation of property for compensation over public highways in California. Since a time prior to 1946, respondents have held permits to operate as a radial highway common carrier and highway contract carrier. They possess, pursuant to Decision No. 41600, dated May 18, 1948, certificated authority to transport fresh berries from the Santa Clara Valley territory and the Watsonville territory, as therein defined, to Los Angeles territory, as described in Item No. 270 of Highway Carriers' Tariff No. 2 and since August, 1949, pursuant to Decision No. 43003, they possess certificated authority to transport general commodities, with specific exceptions, between

the Santa Clara Valley territory and Los Angeles territory.

A summary of all respondents' non-certificated highway carrier operations covering the period September 1 to September 30, 1950, inclusive, prepared as a result of an examination of their shipping records and an interview with their general manager, was introduced into evidence by the Field Division as Exhibit 2.

This exhibit discloses that respondents, during the period surveyed, transported 207 shipments to and from points not within the scope of their certificates, upon behalf of 12 different shippers. The testimony of the Field Division representative who carried on the investigation herein, indicates the respondents conducted all their operations with the same personnel, equipment, office and terminals; but that the records of their certificated transactions were maintained in books and filing cabinets separate and apart from their permitted activities. It further appears from his testimony that respondents had written contracts with nine shippers and that of the 207 shipments detailed on Exhibit 2, all but five thereof were transported by respondents pursuant to such contracts. The witness testified that the five shipments above referred to, viz.: (1)

<u>Point of Origin</u>	<u>Point of Destination</u>	<u>No. of Shipments</u>
Palo Alto	Bellflower	1
Palo Alto	Bellflower	1
San Jose	Encino	1
San Jose	Encino	1
Los Gatos	Sierra Madre	1

were set forth on Exhibit 2 because the destination points are so close to the boundary of the Los Angeles territory; that the information concerning such shipments was contained in the files devoted to the certificated phase of respondents' business; that

(1) Points of origin are within Santa Clara Valley territory. Points of destination are without the Los Angeles territory.

he believes respondents' office employees erroneously relegated such shipments to certificated operations; that on one of the shipments he noted that respondents' had assessed their published rate to the Los Angeles territory and that it would appear respondents thought they were transporting such shipments between points they were authorized to serve.

The record discloses that the Field Division did not raise an issue as to the validity of respondents' contracts and therefore we may assume such contracts are legally sufficient. Too, the record is barren of any evidence with reference to respondents' certificated operations.

We conclude, on this record, that respondents did not perform the operations, with which we are here concerned, other than lawfully. An order discontinuing this proceeding will be entered.

ORDER

A public hearing having been had and based upon the evidence received therein,

IT IS ORDERED that the investigation concerning A. D. Woolley and Ralph E. Woolley is discontinued and Case No. 5144 is dismissed.

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

Dated at Los Angeles, California, this 5th day of June, 1951.

R. F. [Signature]
Harold P. Hills
[Signature]

COMMISSIONERS