

ORIGINAL

Decision No. 46432

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A. D. WOOLLEY and R. E. WOOLLEY,)
copartners doing business as WESTERN)
TRANSPORT COMPANY for a certificate)
of public convenience and necessity)
as a highway common carrier for the)
transportation of fresh fruits and)
fresh vegetables between territories)
in Southern California on the one hand)
and San Francisco Territory on the)
other.)

Application No. 31584

Scott Elder for applicants.
St. Clair, Connolly and Cerini by Orla St. Clair for
Common Carrier Conference, Truck Owners' Association;
H. J. Bischoff and E. P. Merry for Southern California
Freight Lines and Southern California Freight Forwarders;
Gordon and Knapp by Joseph C. Gill for Pacific Freight
Lines and Pacific Freight Lines Express; Edward M. Berol
and Bertram S. Silver for J. J. Leonardini; and F. W.
Kerrigan for Moser Frozen Food Freight Lines, protestants.

O P I N I O N

By their application, as amended, in this proceeding, A. D. Woolley and R. E. Woolley, copartners doing business as Western Transport Company, seek a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of (1) fresh, green and frozen fruits and fresh, green and frozen vegetables including mushrooms, and empty containers for said commodities, between San Francisco Territory, as described in Highway Carriers' Tariff No. 8, on the one hand, and

- (a) All points and places on, along and ten miles or less laterally of U. S. Highway 101 between and including Goleta and Oxnard;
- (b) All points and places within a five-mile radius of Ojai;

- (c) All points and places on, along and ten miles or less laterally of State Highway 126 between its junction with U. S. Highway 101 (near Ventura) and its junction with U. S. Highway 99 (Castaic Junction);
- (d) All points and places on, along and ten miles or less laterally of State Highway 118 between its junction with U. S. Highway 101 (near Montalvo) and San Fernando;
- (e) All points and places within Los Angeles Basin and San Diego territories, as described in Item Nos. 270 and 271 series of Highway Carriers' Tariff No. 2; and
- (f) All points and places on, along and ten miles or less laterally of U. S. Highway 101 between Los Angeles Basin Territory and San Diego Territory,

on the other hand; and (2) citrus fruits and empty containers between San Francisco Territory, on the one hand, and all points and places east of U. S. Highway 99 north of State Highway 178 (east of Bakersfield) and south of State Highway 180 (east of Fresno), hereinafter called the San Joaquin Valley producing area, on the other hand.

The Common Carrier Conference of the Truck Owners' Association, on behalf of its members; and several highway common carriers, including certain affiliated express corporations, protested the granting of the application. Public hearings were held at San Francisco and Los Angeles.

Applicants are engaged in highway common carrier operations transporting general commodities including fruits and vegetables, between Santa Clara Valley and Los Angeles territories, pursuant to Decision No. 43003, dated June 14, 1949, in Application No. 27301 and various related proceedings. By Decision No. 41600, dated May 18, 1948, in Application No. 29212, applicants were granted highway common carrier authority to transport fresh berries from the Santa Clara Valley and Watsonville producing areas to the

Los Angeles Territory. Previously, they conducted these operations under a permit authorizing service as a highway contract carrier.

The classes of traffic proposed to be transported under the sought certificate are now being handled by applicants for "Western Transport Service" as a subhauler. It is represented that the latter operates as a contract carrier and applicants' general manager is the sole owner. According to the testimony, Western Transport Service has in effect about 15 transportation contracts with fresh fruit and produce dealers in San Francisco and Oakland, nine others covering the transportation of citrus fruits only and a few additional contracts relating to the movement of other commodities. It also appears that applicants have a contract with a San Francisco Bay chain store covering the transportation of fresh fruits and vegetables including citrus fruits, three others embracing the movement of frozen fruits and vegetables and an additional contract with a San Francisco shipper, but the nature of the traffic handled thereunder was not disclosed. Applicants' general manager testified that in the event the application herein is granted the fruit and vegetable traffic now handled by Western Transport Service will be transferred to applicants, i.e. Western Transport Company. He declared that an uncertainty as to the legality of the present operations constituted one of the reasons for filing the application.

It is contemplated that shipments originating at the Los Angeles produce market and those delivered to their Los Angeles terminal by 11:00 a.m., daily except Saturdays, will be loaded into trucks departing at 1:00 p.m. and arriving at the San Francisco and Oakland markets by 1:00 a.m. the following morning. The proposed service from other southern California areas will be

rendered on-call, with next morning arrivals in the Bay district, the time depending upon the hour shipments are ready for transportation. An on-call service is also proposed from the San Joaquin Valley producing area, the dispatching and loading of trucks being governed by instructions received from citrus fruit shippers' representatives at Los Angeles.

According to the proposed plan of operation, after the produce has been unloaded at the San Francisco and Oakland markets the equipment will be dispatched, as needed, to load southbound shipments of frozen fruits and vegetables commencing at about 8:00 a.m. It was stated that this arrangement will prove advantageous in that congestion occurring at the cold storage warehouses during the afternoon will be somewhat relieved. Applicants' general manager testified that shipments from the fruit and vegetable producing areas between Oakland and San Jose are usually ready during the late morning hours. The proposal contemplates using trucks stationed at San Jose to pick up these shipments. The transportation beyond San Jose would be in equipment presently handling traffic from the Santa Clara Valley to Los Angeles.

Applicants propose to observe the minimum rates prescribed by the Commission, with the exception that on fresh fruits and vegetables, other than citrus fruits, destined to wholesale markets no rates will be published based on minimum weights exceeding 18,000 pounds.

Terminal facilities are maintained by applicants at San Jose, Gilroy, Watsonville and Los Angeles. An exhibit of record purports to indicate that applicants' equipment consists of twenty-five 35-foot semi-trailers, 13 of which are fully insulated and 12

equipped mechanical refrigeration units; 24 diesel or gasoline powered tractors; and twenty 2-ton pickup trucks.

According to a balance sheet as of June 30, 1950, applicants' cash, accounts receivable and prepayments accounts aggregated \$63,967. The depreciated value of property and equipment was listed as \$175,105. Liabilities were reported as consisting of notes payable, \$83,506; accounts payable, \$31,297; equipment obligations, \$27,247; and accrued taxes, \$7,685; leaving a net partners' capital account of \$89,336. A profit and loss statement for the year 1949 indicates that operating revenues were \$935,136, as contrasted with expenses of \$913,039. A similar compilation covering the first six months of 1950 sets forth operating revenues as having been \$366,626, with expenses amounting to \$355,542.

Applicants' general manager testified that a considerable volume of southbound tonnage moves to destinations included in their certificated rights, but that the northbound traffic to Santa Clara Valley destinations is much lighter. He declared that the present arrangement with Western Transport Service was entered into in order to avoid an uneconomical, empty northbound movement of trucking equipment. According to the witness, there is a definite need for the continuance of the service, as evidenced by the volume of tonnage transported in the past.

Calculations made by applicants' general manager indicate that approximately 10,500,000 pounds of fresh fruits and vegetables were transported by applicants from southern California to the San Francisco and Oakland markets during the period from January 15 to June 15, 1949, inclusive. It was also testified that 11,261,000 pounds of citrus fruits were transported during the year 1949. These figures purport to include shipments transported by applicants as a

carrier, as well as a subhauler for Western Transport Service. Certain exhibits introduced by protestants, compiled from documents made available to them by applicants, indicate that the tonnage handled in 1949 to San Francisco and Oakland was as follows:

	<u>San Francisco</u>	<u>Oakland</u>
	Pounds	Pounds
Western Transport Service		
Fresh fruits and vegetables	1,053,375	1,611,030
Citrus fruits	1,274,866	365,989
Western Transport Company		
Fresh fruits and vegetables	5,981,425	5,838,357
Citrus fruits	<u>6,442,544</u>	<u>4,534,742</u>
Total	14,752,210	12,350,118

The foregoing figures do not purport to include shipments originating in the San Diego area. The witness who presented the exhibits did not recall whether shipments from the Santa Barbara district were included in the compilations.

According to another exhibit of record, applicants transported 8,108,366 pounds of frozen fruits and vegetables from the San Francisco Bay area to southern California destinations during the year 1949. The tonnage transported in the opposite direction was indicated as having been 5,616,000 pounds. These figures, however, include traffic transported in applicants' certificated operations.

The total truck unloads of fresh fruits and produce at the San Francisco and Oakland markets during 1949, as reported by the Federal-State Market News Service, of fruits and vegetables from Los Angeles district ⁽¹⁾ aggregated 2,022 car-lot equivalents at

(1) Includes Los Angeles, Orange, Ventura, San Bernardino and Riverside counties (exclusive of Coachella and Palo Verde Valleys).

Oakland. The truck unloads of citrus fruits from the San Joaquin Valley producing area during the same year, as reported by the same source, were 247 car-lot equivalents at San Francisco and 156 at Oakland. It was testified that contract carriers engage to a substantial extent in the movement of this traffic.

Statistics of record herein, compiled by the Western Frozen Food Processors Association, indicate that the frozen fruit and vegetable pack in California increased from 87,569,716 pounds in 1947 to 186,406,368 pounds in 1949. The data disclose that the 1949 California pack represented 20 per cent of the national production.

In the transportation of fresh fruits and vegetables, applicants' general manager testified, special and careful handling by trained employees is necessary, the equipment used must be capable of rendering dependable service, an expedited service is required because delays result in losses to growers or buyers and some means of refrigeration in transit is necessary. The witness declared that the refrigeration units installed in a portion of applicants' equipment have proven very successful for various kinds of produce which require different temperatures. He also said that ventilation methods are more effective than mechanical refrigeration for certain types of fruits and vegetables.

The same witness testified that fruit and produce originating at the Los Angeles market must arrive at the San Francisco and Oakland markets not later than 5:00 or 6:00 a.m., depending upon the season of the year; that it is not usually necessary to deliver shipments from outside of Los Angeles before the Bay markets open; and that unless an early arrival is requested the shipments should

be delivered at about 8:00 a.m. or later. It was also testified that deliveries of citrus fruits at the markets at about 8:00 or 9:00 a.m. are satisfactory, unless the supply on hand is short.

Representatives of various fruit and produce dealers and a chain store organization in the Bay area, as well as a number of southern California shippers testified on behalf of applicants. The Bay area dealers stressed the necessity of having their produce arrive at the markets not later than 5:00 a.m. during the winter and 4:00 a.m. during the summer months. The chain store representative asserted that it is important that its shipments be delivered between midnight and 4:00 a.m. Speed, proper ventilation, refrigeration and careful handling were characterized as essential. The Bay area witnesses also testified that early deliveries of citrus fruits were not so important as in the case of other fruits and vegetables, unless the supplies on hand may be short, but that overnight service is necessary. The necessity of quick and dependable service for Government and export shipments was referred to. Some of these witnesses stated that on occasions they had not been able to secure sufficient trucks or the service of a trucking concern that would guarantee to deliver shipments in time to make the market. It was pointed out that there has been a considerable increase in buying at the Los Angeles market for Bay deliveries during recent years.

The southern California shipper-witnesses testified that delays in picking up shipments were objectionable and that dependable overnight service is essential.

A number of shippers and consignees of frozen fruits and vegetables also testified. They stressed the importance of overnight

service and the availability of proper refrigeration in transit. One of this group of witnesses asserted that the existing common carriers do not offer adequate service for cargo requiring refrigeration. Another stated that additional common carriers would assist in meeting expected future requirements for the transportation of frozen fruits and vegetables.

The public witnesses, as a whole, declared that the service of applicants, including Western Transport Service, has been very satisfactory. They expressed a preference for service by common carriers, rather than contract carriers, the reasons given being that such service is more reliable and dependable and that the going rates are published and filed. One witness testified that, while the service of Coast Line Truck Service has been very good, there have been times when trucking space was not available.

A witness for Culy Transportation Co. testified that daily operations are conducted between San Francisco and San Diego territories under a general commodity certificate. He stated that six schedules a day are operated in each direction, but that while a 100 per cent load factor is experienced in the southbound operations, the northbound load factor is only 50 per cent, and that the carrier is constantly faced with the problem of stimulating northbound traffic. This witness also asserted that Culy transports both northbound and southbound fruits and vegetables; that the company has seven insulated trailers, which have proven adequate for perishables; and that refrigeration in transit is not necessary in its operations.

J. J. Leonardini, who operates pursuant to a certificate of public convenience and necessity, granted by Decision No. 44528,

dated July 11, 1950, in Application No. 30943, testified that he is equipped to operate from eight to ten schedules each night between southern California and San Francisco Bay points, but has only been able to secure sufficient traffic to maintain four schedules nightly. The certificate granted by Decision No. 44528 authorizes the transportation of fresh fruits and vegetables, other than in a frozen state, and empty carriers, in lots of not less than 10,000 pounds, between San Francisco and specified East Bay cities and points in central and southern California south of Fresno. He also possesses other operative rights authorizing service between the Vacaville and Delta areas and San Francisco Bay points. This witness stated that he acquired additional equipment to provide service under his central and southern California-San Francisco Bay certificate. According to the record, his equipment comprises approximately 35 power units and from 65 to 70 trailers and semi-trailers.

An exhibit of record purports to indicate that during one week in each month of 1950, Coast Line Truck Service, Inc., transported from southern California to San Francisco and Oakland 462 full legal or visible loads and 189 partial loads. The same document shows that 31 empty trips were made during the same periods. According to the data submitted, the northbound load factor was about 87.5 per cent. Another exhibit discloses that during the 12 months ended July 31, 1950, this carrier's revenues, most of which are derived from produce hauling, amounted to \$1,532,618, as contrasted with expenses of \$1,524,712. Similar data for the 12 months ended November 30, 1950, indicate revenues as having been \$1,802,821 and expenses amounting to \$1,804,062. The record also indicates that Coast Line's equipment includes 31 semi-refrigerated

trailers, 17 fully refrigerated trailers, numerous tractors and pickup and delivery trucks and shuttle tractors stationed at Watsonville, Los Angeles, Salinas, San Jose and San Francisco.

Testimony was also presented on behalf of Moser Frozen Food Freight Lines, a carrier engaged in transporting frozen foods between certain southern California and San Joaquin Valley points and the Bay area. It was stated that this carrier has 18 20-foot trailers and one 35-foot trailer, all of which are insulated and equipped with mechanical refrigeration units, and that the available equipment is sufficient to handle additional traffic.

In addition, protestants offered evidence for the purpose of showing that numerous citations were issued against applicants' drivers during 1949 and 1950 for violations of the Vehicle Code. The Chief of the California Highway Patrol presented testimony concerning excessive speeds involving five southbound truck and trailer movements during September, 1950.

The applicants presented testimony purporting to show that since February 1951 they have enacted more stringent rules regulating the operation of their vehicles on the highways and have severely disciplined their drivers for violations of the Vehicle Code. This testimony disclosed, too, that at least eight of the citations referred to by protestants were directed to a company other than applicants'.

A transportation engineer on the Commission's staff who traveled on one of applicants' truck-tractors coupled to a loaded trailer, between Los Angeles and San Jose and return on March 21, 1951, and March 23, 1951, respectively, testified that on such occasions the driver complied with the maximum speed limits and performed the northbound trip in nine hours and 21 minutes running time, and accomplished the southbound trip in nine hours and 40 minutes running time.

Upon the facts presented, the Commission is of the opinion and finds that public convenience and necessity require the establishment and operation by applicants of service as a highway common carrier as proposed in the application, as amended.

Applicants are hereby placed on notice that the Commission expects them to comply with the applicable State laws governing the speed and operation of vehicles on the highways. Any violation of such restrictions may be grounds for revocation or suspension of the operative rights hereinafter granted.

O R D E R

Public hearings having been had and the Commission, upon the evidence received, having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to A. D. Woolley and R. E. Woolley, copartners, authorizing the establishment and operation of a

service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of (a) fresh, green and frozen fruits and fresh, green and frozen vegetables, including mushrooms, and empty containers for said commodities, between San Francisco territory, as described in Highway Carriers' Tariff No. 8, on the one hand, and

- I. All points and places on, along and 10 miles or less laterally of U. S. Highway 101 between and including Goleta and Oxnard;
- II. All points and places within a five mile radius of Ojai;
- III. All points and places on, along and 10 miles or less laterally of State Highway 126 between its junction with U. S. Highway 101 (near Ventura) and its junction with U. S. Highway 99 (Castaic Junction);
- IV. All points and places on, along and 10 miles or less laterally of State Highway 118 between its junction with U. S. Highway 101 (near Montalvo) and San Fernando;
- V. All points and places within Los Angeles Basin and San Diego territories, as described in Item Nos. 270 and 271 series of Highway Carriers' Tariff No. 2; and
- VI. All points and places on, along and 10 miles or less laterally of U. S. Highway 101 between Los Angeles Basin territory and San Diego territory, on the other hand,

and (b) citrus fruits and empty containers between San Francisco territory, on the one hand, and all points and places east of U. S. Highway 99, north of State Highway 178 (east of Bakersfield) and south of State Highway 180 (east of Fresno), described as the San Joaquin Valley producing area, on the other hand.

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

- (a) Within thirty (30) days after the effective date hereof, applicants 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, 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, tariffs and time schedules satisfactory to the Commission.

- (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:

Between San Francisco Territory and Los Angeles Basin Territory: U. S. Highway 101; and also alternatively, U. S. Highway 101 By-Pass between San Francisco and San Jose; State Highway 17 between Oakland and San Jose; San Francisco-Oakland Bay Bridge State Highway 152 between its junctions with U. S. Highways 101 and 99; U. S. Highway 99 between its junction with State Highway 152 and Los Angeles Basin Territory; U. S. Highway 50 between Oakland and Manteca; State Highway 120 between Manteca and its junction with U. S. Highway 50; U. S. Highway 99 from said junction to Los Angeles;

Between Ventura and Ojai, U. S. Highway 399; and also alternatively the unnumbered county road connecting U. S. Highway 101 and State Highway 150 near Carpenteria and State Highway 150 between its junction with said county road and U. S. Highway 399 near Ojai;

Between Los Angeles Basin Territory and San Diego Territory, U. S. Highway 101;

All streets, roads and highways within said San Francisco Territory, Los Angeles Basin Territory and San Diego Territory; and all roads and highways lateral or parallel to U. S. Highway 101 within the lateral zones described in paragraph (1) above;

State Highways 126 and 118 between their respective junctions with U. S. Highways 101 and 99, and all roads and highways lateral or parallel to State Highways 186 and 118 within the zones lateral thereto described in paragraph (1) above; and

All roads, streets and highways within said San Joaquin Valley producing area.

The effective date of this order shall be twenty (20) days

after the date hereof.

Dated at San Francisco, California, this 20th day of November, 1951.

A. F. [Signature]
PRESIDENT
Justin F. Casper
Harold A. Kula
Marionette Potter
John J. [Signature]
COMMISSIONERS