

ORIGINALDecision No. 47425

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 A. D. WOOLLEY and R. E. WOOLLEY,)
 doing business as WESTERN TRANSPORT)
 COMPANY, a copartnership, for certifi-)
 cate to operate as a highway common) Application No. 31527
 carrier between Santa Clara Valley)
 territory, including San Jose, on the)
 one hand, and an extended territory)
 in Southern California, on the other)
 hand.)

Scott Elder, for applicants.

Gordon, Knapp & Gill, by Joseph C. Gill, for Pacific
 Freight Lines and Pacific Freight Lines Express,
 protestants.

Douglas Brookman, by Joseph C. Gill, for California
 Motor Transport, Ltd., and California Motor Express,
 Ltd., protestants.

Edward M. Berol and Bertram S. Silver, for Culy
 Transportation Company, protestants.

William Meinhold, Frederick E. Fuhrman, E. L. H.
Bissinger and Walter A. Steiger, by Frederick E.
Fuhrman, for Southern Pacific Company, Pacific Motor
 Trucking Company and Pacific Electric Railway Company,
 protestants.

OPINION ON REHEARING

A. D. Woolley and R. E. Woolley, by Application No. 31527,
 sought authority to operate as a highway common carrier for the
 transportation of general commodities, with certain exceptions, be-
 tween points in the Santa Clara Valley, on the one hand, and points
 in the Los Angeles Basin and San Diego territories, including all
 points located on, and two miles or less from U. S. Highway 101 be-
 tween the Los Angeles Basin and San Diego territories, on the other
 hand.

The Commission in Decision No. 45580, dated April 17, 1951, denied such application. Thereafter, in response to a petition for rehearing filed herein by applicants on May 4, 1951, the Commission issued an order dated June 12, 1951, granting rehearing and pursuant thereto public hearings were held before Examiner Silverhart at San Francisco and Los Angeles on November 5, 13 and 14, 1951, January 14 and 31, 1952, and February 14, 1952.

Decision No. 45580 described applicants' proposal as follows:

"According to the proposal now presented for approval, applicants intend to transport less-truckload shipments in line-haul equipment between San Jose and Los Angeles. Deliveries in the territories proposed to be served would be accomplished by delivery trucks operating out of applicants' Los Angeles terminal. After completing deliveries the trucks would return to Los Angeles, picking up shipments for the Santa Clara Valley while en route. It is proposed to effect deliveries at the various destinations on the first day after shipment from point of origin. According to a proposed time schedule, trucks are to depart from Los Angeles at 6:00 a.m. in the general direction of San Bernardino, Riverside and San Diego, reaching those points at about 12:00 noon. It is planned to dispatch the same trucks from San Bernardino, Riverside and San Diego, respectively, at approximately 2:00 p.m., so as to arrive at Los Angeles in time to connect with northbound line-haul equipment leaving there during the evening. Service is proposed on six days a week."

In denying the application the Commission at mimeographed pages 13 and 14 of Decision No. 45580 stated:

"Having carefully considered the entire record, we are convinced that the showing presented does not establish that, under the proposed method of operation, a dependable and satisfactory overnight service is practicable. Indeed, in view of the several imponderables which have been brought to light, it would appear that applicants' service would in a number of respects prove undependable and not entirely satisfactory to certain shippers."

"Some of the factors which, in our opinion, justify these conclusions are:

"The extensiveness of the areas to be served by the number of vehicles applicants propose to use;

"The probable diversions which may be necessary from the direct routes of travel, especially in the Basin territory;

"The uncertainty of the time deliveries will be made from one day to another to a given consignee or at the same destination;

"The limited time allowed for delivering and picking up shipments at the eastern or southern terminus of the several routes, including the time of day such work is proposed to be attempted;

"The absence of agencies or other definite arrangements to afford a convenient means whereby shippers may request service;

"The early hours at which it will be necessary to have shipments ready for transportation from some points and the uncertainty of the time pick-ups will be possible at other points;

"The uncertainty as to whether the territory can be served with the equipment proposed to be used within the time required in order to provide a consistent overnight service; and

"While additional route trucks would permit of a more reliable service in some respects, it is apparent from the prospective traffic that the operation of such equipment would not be justified from an economic standpoint."

By amendment filed during the course of the hearings, applicants reduced the scope of their proposed service area. The territory as now encompassed by the application is as follows:

"Between applicants' Santa Clara Valley Territory, on the one hand, and:

1. San Bernardino, Highland, and all points along and within three miles of U. S. Highway 66 westerly of San Bernardino.
2. Redlands and all points along and within three miles of U. S. Highway 99 westerly of Redlands.

3. Riverside, March Field, all points and places along and within three miles laterally of U. S. Highway 60-395 west of Riverside; and Puente and Chino.

4. Santa Ana, Placentia, and all places within three miles of U. S. Highway 101 and 101 Bypass between State Highway 19 and U. S. Highway 101 Alternate southerly of San Juan Capistrano.

5. Corona and all points along and within one mile of U. S. Highway 91 between Colton and Anaheim; and Yorba Linda.

6. San Diego territory as defined in Item 271 of Highway Carriers' Tariff No. 2; all points along and within two miles laterally of U. S. Highway 101 Alternate between San Diego territory and Los Angeles territory; Los Alamitos Naval Air Station; and all points within three miles of State Highway 19."

Service is now to be lessened to five days a week and applicants plan to utilize as route trucks four pick-up and delivery units and one tractor and single axle semi-trailer.

Applicants did not present any public witnesses. In the main, their evidence consisted of operating testimony and the testimony of and exhibits prepared by a consulting engineer.

Exhibits R-1, R-2, R-6, R-6A, R-7 and R-7A were developed by this engineer from extracts of applicants' records covering shipments transported during June 1951 from their Santa Clara Valley territory to points east and south of the Los Angeles territory and the application thereto of Exhibit R-4, an exhibit he built up by the use of performance data referred to as "Average Time Per Stop (Mins)" and "Average Weight Per Stop (Lbs.)" set forth in the "Report On The Study of the Cost of Transporting Property By Motor Vehicle Equipment In the State of California" prepared by two senior transportation engineers of the Commission's Staff (Exhibit 254,

Case No. 4808) at Chapter IV, page 16 thereof. Such shipments were transported by means of interchange at Los Angeles with highway common carriers presently rendering service within the area here involved.

Exhibit R-1 divides the territory, authority to serve which is sought herein, into five routes designated A, B, C, D and E. The exhibit sets forth, for each route, the total poundage (deliveries and pickups), interchanged by applicants with connecting carriers at Los Angeles during the 21 shipping days in June 1951, points served, average pounds per day, total number of stops, average points per stop, average minutes per stop, total stop time, average stop time per day, mileage from point to point, running speed in miles per hour, running time and clock time. The average stop time per day was calculated by the adhibition of Exhibit R-4 to the pounds per stop, multiplying the result by the total number of stops then dividing the consequence by 21. The average stop time per day was then combined with the running time to produce average daily time schedules as follows:

	<u>Deliveries</u>	<u>Pickups</u>
<u>Route A</u>		
Los Angeles	Lv 7:30 a.m.	5:02 p.m. Ar
Monrovia	Ar 8:04	4:27 Ar
Duarte	Ar 8:10	4:22 Ar
Azusa	Ar 8:20	4:10 Ar
Glendora	Ar 8:31	4:05 Ar
LaVerne	Ar 8:49	3:46 Ar
Claremont	Ar 8:58	3:39 Ar
Upland	Ar 9:12	3:28 Ar
Cucamonga	Ar 9:25	3:16 Ar
Fontana	Ar 9:46	2:55 Ar
Rialto	Ar 9:58	2:42 Ar
San Bernardino	Ar 10:14	2:19 Ar
Patton	Ar 11:03	2:04 Ar
Highland	Fn 11:11 A.M.	2:00 Start

	<u>Deliveries</u>	<u>Pickups</u>
<u>Route B</u>		
Los Angeles	Lv 7:30 a.m.	5:39 p.m. Ar
Covina	Ar 8:10	4:46 Ar
Ontario	Ar 9:02	4:00 Ar
Colton	Ar 10:15	3:10 Ar
Loma Linda	Ar 11:00	2:55 Ar
Redlands	Fn 11:50 a.m.	2:30 Start
<u>Route C</u>		
Los Angeles	Lv 7:30 a.m.	5:15 p.m. Ar
Baldwin Park	Ar 8:16	
Pomona	Ar 8:44	4:29 Ar
Chino	Ar 9:43	4:12 Ar
Riverside	Ar 10:22	3:03 Ar
Arlington	Ar 11:30	2:41 Ar
March Field	Fn 12:12 p.m.	2:07 Ar
Perris		2:00 Start
<u>Route D</u>		
Los Angeles	Lv 7:30 a.m.	5:32 p.m. Ar
Fullerton	Ar 8:17	4:39 Ar
Placentia	Ar 8:31	
Corona	Ar 9:08	3:50 Ar
Olive	Ar 9:56	
Anaheim	Ar 10:08	2:48 Ar
Orange	Ar 10:54	2:26 Ar
Santa Ana	Fn 11:53 a.m.	2:07 Ar
Tustin		2:00 Start
<u>Route E.</u>		
Los Angeles	Lv 6:00 a.m.	Ar 6:41 p.m.
Oceanside	Ar 8:30	Ar 3:57
San Diego	Ar 12:27 p.m.	Fn 2:00 Start

Exhibit R-6A calculates the effect upon Exhibit R-1 of an assumed 40 per cent increase of traffic over June 1951 by enlarging the average stop time per day contained therein by 40 per cent but keeping the running time unvarying. The following tabulation affords a comparison of these two exhibits:

	<u>Exhibit R-1</u>	<u>Exhibit R-6A</u>
<u>Route A</u>		
Deliveries (Los Angeles (Highland	7:30 a.m. -- Leave-- 11:11 a.m. -- Finish--	7:30 a.m. 11:34 a.m.
Average stop time per day (mins)	62	87
Running time per day (mins)	157	157

	<u>Exhibit R-1</u>	<u>Exhibit R-6A</u>
<u>Route A</u>		
Pickups (Highland (Los Angeles)	2:00 p.m. --- Start --- 5:02 p.m. --- Arrive ---	2:00 p.m. 5:12 p.m.
Average stop time per day (mins)	25	35
Running time per day (mins)	157	157
Drivers hours* round trip	8.53	8.71
<u>Route B</u>		
Deliveries (Los Angeles (Redlands)	7:30 a.m. -- Leave -- 11:50 a.m. -- Finish --	7:30 a.m. 12:35 p.m.
Average stop time per day (mins)	114	159
Running time per day (mins)	146	
Pickups (Redlands (Los Angeles)	2:30 p.m. -- Start -- 5:39 p.m. -- Arrive --	2:30 p.m. 5:58 p.m.
Average stop time per day (mins)	48	67
Running time per day (mins)	141	141
Drivers' hours* round trip	9.15	9.47
<u>Route C</u>		
Deliveries (Los Angeles (Perris)	7:30 a.m. -- Leave -- 12:12 p.m. -- Finish --	7:00 a.m. 12:29 p.m.
Average stop time per day (mins)	119	167
Running time per day (mins)	163	163
Pickups (Perris (Los Angeles)	2:00 p.m. -- Start -- 5:15 p.m. -- Arrive --	2:00 p.m. 6:16 p.m.
Drivers' hours* Round trip	9.35	10.27
<u>Route D</u>		
Deliveries (Los Angeles (Santa Ana)	7:30 a.m. -- Leave -- 11:53 a.m. -- Finish --	7:30 a.m. 12:37 p.m.
Average stop time per day (mins)	111	155
Running time per day (mins)	152	152
Pickups (Tustin (Los Angeles)	2:00 p.m. -- Start -- 5:32 p.m. -- Arrive --	2:00 p.m. 5:54 p.m.
Average stop time per day (mins)	55	77
Running time per day (mins)	157	157
Drivers' hours* Round trip	9.03	9.40
<u>Route E</u>		
Deliveries (Los Angeles (San Diego)	6:00 a.m. -- Leave -- 12:27 p.m. -- Finish --	6:00 a.m. 1:22 p.m.
Average stop time per day (mins)	137	192
Running time per day (mins)	250	250

Exhibit R-1Exhibit R-6ARoute E

Pickups (San Diego (Los Angeles	2:00 p.m.--Start-- 6:41 p.m.--Arrive--	2:30 p.m. 7:23 p.m.
Average stop time per day (mins)	31	43
Running time per day (mins)	250	250
Drivers' hours* Round trip	11.68	12.38

* Overall time less one hour for lunch

Exhibits 7 and 7A set forth applicants' estimated cost per 100 pounds for the performance of delivery and pick-up service between their Los Angeles terminal and points on Routes A, B, C, D and E based firstly on the June 1951 traffic hereinabove referred to and secondly upon an estimated increase of 40 per cent in such traffic. Exhibit R-7B purports to show that the proposed service, on the basis of the said June 1951 traffic, would produce a total loss of \$36.89 per day for all five routes, but that an expansion of 40 per cent in such traffic would result in increased revenue exceeding increased cost by \$9.17 per day.

Applicants' testimony indicates that they propose to make use of telephone answering services at various points here concerned. They plan to employ a San Diego drayage company to make their deliveries and pickups within the city of San Diego. The Route E truck would deposit San Diego shipments at the drayage company's San Diego terminal, proceed to the outlying areas around San Diego, make deliveries and pickups therein, return to said terminal, there take on shipments which were picked up in San Diego by such drayage company then depart for applicants' Los Angeles terminal. It is not intended, according to the testimony, that Routes A, B, C, D and E be fixed and inflexible but that they may be varied or altered from day to day as the flow of traffic requires and proper dispatching technique dictates.

The testimony of the author of the exhibits disclosed that the mileages from point to point contained in Exhibit R-1 are not actual mileages but were computed from a map and assumed that such distances extended from the center of one town to the center of the next and did not include any allowance for deviations therefrom. His testimony indicated that the running speeds set out in Exhibit R-1 were such speeds as in his judgment were operable in the proposed area; that he did not know the number of electric stop and go signals and stationary stop signs located on and along Routes A, B, C, D and E; that he did not make a road study in order to determine the accuracy of the stop and running times shown in Exhibit R-1; that no calculation was made on such exhibit for delay time in addition to stop time, on the ground that the running time was sufficiently conservative to allow for whatever delay time would be incurred; that in constructing Exhibit R-1, only data with reference to average weight per stop and average time per stop were extracted from Exhibit 254, Case No. 4808, and no consideration was given to the finding contained in said Exhibit 254 viz:

"....Analysis of the information obtained from Form 4808-3 shows that the regular pick-up and delivery truck unit operated in multiple stop service is performing loading or unloading operations at shippers' or consignees' door 56 per cent of the overall time, while the remaining 44 per cent comprises the running time en route and delay time en route or while waiting in line to load or unload shipments. Delay time was determined to be 13.5 per cent of the over-all time.....".

It is manifest from the evidence that Exhibit R-7A in computing estimated cost upon an estimated increase of 40 per cent in traffic excluded the possibility that such increase might cause an amplification of the miles operated per round trip with a resultant enlargement of costs. Further the evidence also reveals that Exhibit R-7B failed to take cognizance of the cost of telephone answering services, claims inspections, service to off-route points and the employment of a San Diego drayman.

Protestants caused test traffic runs to be made on January 3, 1952, January 4, 1952 and January 9, 1952, between applicants' terminal at 2860 South Alameda Street, Vernon, and the intersection of Myrtle and Colorado Streets, Monrovia. Three round trips were made in a 1950 Ford Sedan, utilizing the services of a driver and an observer. Exhibits R-13, R-14 and R-15 setting forth the results of the tests performed on January 3, 4 and 9, respectively, were placed in evidence by protestants. The route followed in Exhibit R-13 was one described by applicants' consulting engineer, while the routes pursued in Exhibits R-14 and R-15 were slightly different.

A comparison of these exhibits and Route A of Exhibit R-1 follows:

	<u>Ex. R-1</u>	<u>Ex. R-13</u>	<u>Ex. R-14</u>	<u>Ex. R-15</u>
<u>Left terminal</u>	7:30 a.m.	8:58 a.m.	7:30 a.m.	7:28 a.m.
Miles*	17	21	20.4	20.5
Total elapsed time (minutes)	34	51	55	58
Average miles per hour*	30	24.6	22.2	21.1
<u>Left Monrovia</u>	4:28 p.m.	10:30 a.m.	8:43 a.m.	3:47 p.m.
Total elapsed time (minutes)	34	53	52	62
Average miles per hour*	30	23.4	24	19.8

* Exhibit R-1 set forth map miles and assumed running speed. Exhibits R-13, R-14 and R-15 show speedometer miles and actual running speeds.

Exhibit R-13 discloses that 36 electric traffic signals and 14 boulevard stops were encountered en route to Monrovia and 37 electric signals and 13 boulevard stops on the return trip; that the vehicle used was brought to a stop 24 times outbound and 23 times inbound. Exhibit R-14 revealed a total of 93 traffic signals and boulevard stops and that the vehicle used therein was halted a total of 48 times therefor. Exhibit R-15 shows 57 traffic controls between applicants' Los Angeles terminal and Monrovia which occasioned 32 stops.

Exhibits R-18 and R-19 are grounded on Pacific Freight Lines' daily driver reports for November 4, 1949, and September 19, 1950, covering shipments transported from its Santa Ana terminal to various points which applicants propose to serve. These exhibits show the time of departure and return from and to the terminal, number of delivery stops, number of pickup stops, number of speedometer miles and the working time used by Pacific Freight Lines to perform the service. Also set forth therein is the result achieved by applying Exhibits R-1 and R-4 to the data contained on the said drivers' daily reports (Exhibits R-16 and R-17 herein). The comparisons of actual working time and the working time produced by the projection of Exhibits R-1 and R-4 set forth in Exhibits R-18 and R-19 indicate that the estimated times shown on Exhibit R-1 are considerably understated in so far as Pacific Freight Lines' actual operating experience is concerned.

Applicant R. E. Woolley testified that he personally conducted running tests to various points on Exhibit R-1 on January 3, 1952 as to Route A, on January 10, 1952 as to Route B, on January 4, 1952 as to Route C, on January 8, 1952 as to Route D and supervised the test run on December 31, 1951 as to Route E. According to his testimony, he simulated actual operating conditions by driving an empty truck, of the kind to be used in the proposed service, from his Los Angeles terminal to the places of business of selected consignors and consignees whose shipments formed a part of his June 1951 traffic interchanged at Los Angeles with other highway carriers and moving to and from points here involved. It appears that he paid no attention to the routes laid out by the engineer but chose routes which he claimed could be traversed in the shortest time; such choice, as to at least one route, being governed by knowledge acquired by having lived in the area during his college days. Exhibit R-21 sets forth the points visited during the tests and shows the time of

departure from Los Angeles, number of stops, time of arrival and leaving and odometer readings. The witness stated that he adopted as the time of arrival such time as he would have been enabled to unload; that in determining the amount of time lapsing between arrival and departure he did not apply Exhibit R-1 but fixed upon a period of time that he thought was correct. Exhibit R-21 makes no provision for delays incidental to loading and unloading.

Applicants' exhibits R-22, R-23 and R-24, by chart, graph and tables compare the loading or unloading performance of pickup and delivery operations referred to at page 16 of Exhibit No. 254, Case No. 4808 with that of peddle trip operations referred to at page 35 of said Exhibit No. 254. The evidence shows that the shortest route hereinabove mentioned contains 156.7 miles round trip. A peddle trip operation is defined in said Exhibit No. 254 as consisting of, among other things, approximately 60 miles (speedometer) round trip on the average, and varying from 25 to 150 miles per round trip. It follows that the proposed service does not fall within such definition and therefore Exhibits R-22, R-23 and R-24 are of no moment here.

Exhibit R-25 takes the arrival times and speedometer readings shown on Exhibit R-21 and constructs thereon running time, mileage, and average miles per hour between the various points on the several routes. This exhibit shows more miles for each route than are set forth in Exhibit R-1 and a longer running time for each route save Route E which is shown as having a shorter running time. The effect of such additional mileage and running time upon applicants' costs is not computed; neither is the effect of a 40 per cent increase in traffic here taken into consideration.

Exhibit R-26, on the basis of pick-up and delivery operations, devises time schedules for the Woolley simulated test runs by

the utilization of the running time which was fabricated in Exhibit R-25, the application of Exhibit R-4 to the interchanged poundage to arrive at stop time and then adding such stop time to said running time.

The record shows differences between Exhibit R-26 and Exhibit R-1 as illustrated by the following examples:

1. Route A, Exhibit R-26 is 16.7 miles longer than the same route on Exhibit R-1 yet on Exhibit R-26 the time schedule is only nine minutes slower.

2. The pick-up portion of Route B Exhibit R-26 is 17.1 miles longer than its companion route in Exhibit R-1 yet the time of arrival is three minutes earlier.

3. Route E, Exhibit R-26 cuts 22 minutes from the schedule shown for Route E, Exhibit R-1, yet is 25.1 miles longer.

Exhibit R-26 was not expanded, as was Exhibit R-1, to show the effect of an increase of 40 per cent in traffic upon costs of the proposed service or upon the time schedules. It is apparent that such an increase would render inefficacious the schedules set forth in Exhibit R-26 and must increase costs as appears from the following tabulation:

		<u>Route D</u>	
		Total Stop Time (minutes)	Time Schedule
Exhibit R-26	)	173	Lv 7:30 a.m.
Exhibit R-26 + 40%	) Deliveries	242.2	Fn 1:35 p.m.
	)		Lv 7:30 a.m.
	)		Fn 2:44 p.m.
Exhibit 26	)	40	Lv 2:00 p.m.
Exhibit R-26 + 40%	) Pickups	56	Ar 5:24 p.m.
	)		Lv 2:59 p.m.*
	)		Ar 6:39 p.m.

Exhibit R-26 - Drivers' Pay Hours 8 hrs., 54 mins.
 Exhibit R-26 + 40% - Drivers' Pay Hours 10 hrs., 44 mins.

* 25 minutes for lunch.

While protestant Pacific Freight Lines' service is not exactly the same as that proposed herein, its performance data is taken from its actual operating activities within the area encompassed by the application and affords a more reliable yardstick than the highly conjectural conclusions put forward by applicants.

It is difficult to perceive in what manner applicants can vary their routes as dictated by dispatching needs and traffic demands, shift trucks from one route to assist on another route and at the same time adhere to their time schedules.

The record is devoid of evidence that the San Diego drayman with whom applicants propose to interchange San Diego city shipments intends to devote other than his regular equipment to such service or to run schedules therefor, in addition to those he presently operates. It appears very unlikely therefore, that applicants can render an overnight service with next day delivery from Santa Clara Valley points to San Diego.

Applicants, in the preparation of certain of their exhibits, meticulously culled from Exhibit 254, Case No. 4808, performance data pertaining to average weight per stop and average time per stop while rejecting and disregarding other very pertinent data set forth therein pertaining to average number of pieces per stop, the ratio of delay time to over-all time and the delay time excluded from the average time per stop.

Further, Exhibit 254, Chapter IV, was compounded from lengthy and detailed studies of the records of 17 carriers and their vehicles and personnel while engaged in the very process of transporting property. Applicants were not one of these carriers. There is nothing in this record to show that applicants possess similar equipment and have in their employ personnel of like number, proficiency and efficiency.

It is apparent that applicants' exhibits were constructed by a highly theoretical synthesis which does not present factual data of assistance to this Commission and produced results inimical to the conclusions contained in Decision No. 45580, hereinabove set forth.

The record in this proceeding does not demonstrate that error was committed in denying Application No. 31527. Decision No. 45580 will be affirmed.

ORDER ON REHEARING

A rehearing having been had and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That Decision No. 45580, dated April 17, 1951, in Application No. 31527, is affirmed.

This decision on rehearing shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 30th day of June, 1952.

[Signature] President
[Signature]
[Signature]
[Signature]
Commissioners

Commissioner Justus E. Craemer, being necessarily absent, did not participate in the disposition of this proceeding.