

A. 33406, as amended.

**ORIGINAL**

Decision No. 48165

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
D. D. Byrnes, doing business as )  
California Trucking Exchange, for a ) Application No. 33406,  
license as a Motor Transportation ) as amended.  
Broker. )

J. Richard Townsend, for applicant.

O P I N I O N

D. D. Byrnes, doing business as California Trucking Exchange requests the issuance of a license permitting him to engage in the business of a motor transportation broker as defined by Section 4803 of the Public Utilities Code.

A public hearing was held at Fresno, California, before Examiner Rowe on December 12, 1952, at which time oral and documentary evidence in support of the application was adduced and the matter was duly submitted for decision.

Applicant is 52 years of age and resides in Fresno. He has had a long career in transportation and shipping. For fifteen years he was traffic manager for Sun-Maid Raisin Growers Association and was employed in its traffic department for a total of 23 years. Previously he was employed by railroad companies.

The business proposed by applicant and for which a license is asked consists of arranging for transportation in interstate commerce in truck load amounts of unmanufactured agricultural commodities which are exempt from regulation by Section 203 (b)(6) of the Interstate Commerce Act. (See Determination of Exempted Agricultural Commodities, 52 M.C.C. 511). The motor carriers for which such transportation is to be arranged are engaged exclusively in interstate commerce and are not required to hold, and do not hold, any certificates or permits issued by the Interstate Commerce

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Commission.

Consequently, the carriers for whom applicant wishes to be permitted to arrange transportation will vary from time to time and applicant can never know from one day to the next when a new and different carrier will request his services. These carriers perform transportation, which is not subject to the Interstate Commerce Act, from points in the eastern, northern, southern or middle western part of the United States to points in California and upon their arrival in California they contact applicant and request that he arrange for an eastbound or northbound load of exempt commodities for them to carry back.

Under these circumstances there will not be sufficient time for applicant to obtain from such new or additional carriers a letter of authority and file it with this Commission with the request that the order of the Commission granting a motor transportation broker's license be amended to include the name of such new or additional carrier before arranging the required transportation for such carrier. Applicant has submitted the names of 309 such carriers he proposes to serve and asks that the Commission order set out such names as being the motor carriers for whom he will be licensed to sell transportation. In addition he requests that just as soon as the names of additional carriers are known who desire his services, applicant be permitted to furnish the Commission the name and address of such additional carriers so that the license may permit him to serve such carriers.

Letters of authority from a total of 106 such carriers have been filed with the Commission. These and other carriers have been served by applicant under the bona fide belief that a license is not required from this Commission. However, upon being advised by members of the Commission Staff that such a license is required this application was promptly filed.

Applicant testified that generally these interstate carriers of exempted freight did not carry cargo insurance. He proposes to continue his practice of requiring all carriers for whom he negotiates transportation service to either take out insurance to cover the cargo or he will himself take out temporary insurance on the cargo and will deduct the cost of premium from the amount due the carrier. He also carries an overriding policy in the sum of \$10,000.

The procedure followed and proposed for doing business was described by applicant. A carrier coming from some point out of California after delivering his cargo in this State will contact applicant requesting a load for the return trip. Many shippers of exempt freight advise applicant regularly of their transportation needs. As a result, applicant instructs such carrier to go to the place of business of the shipper needing his services. As soon as the freight is loaded, applicant bills the shipper for the freight charges. When this freight is delivered to the consignee as directed, the carrier advises applicant who immediately mails his check to the carrier in payment for this transportation, after deducting a commission of 5% and the cost of any cargo insurance which he shall have taken out.

Several shippers located in California testified regarding the qualifications of applicant and the need for the service he proposes. Applicant testified that an average of approximately 25 truck loads are handled weekly by applicant to points throughout the United States. One carrier from Florida, one from Oklahoma and one residing in Fresno described the services of applicant and stated that there was an urgent need for his services if they expect to continue their business profitably. One of these latter witnesses expressed a strong opinion that such brokers should be subject to Commission regulation.

The Commission finds (1) that applicant is a fit and

proper person to receive the license as requested and (2) that the transportation which the applicant proposes to arrange or negotiate for, consists of the movement over the public highways of this State of commodities exempted by the Interstate Commerce Commission. The Commission further finds that applicant does not propose to sell transportation but intends, and will be required, to limit his operations to arranging, negotiating, furnishing or providing or holding himself out as one who furnishes or provides transportation over the public highways of this State within the meaning of Section 4803 of said Code and only on behalf of motor carriers restricting their carriage to freight in interstate commerce which is exempt from the regulation by Section 203 (b)(6). The license requested will be issued to applicant restricted to such service only, and will be limited to operations at his place of business located at 619 Belmont Avenue, Fresno, California. Applicant has filed a bond pursuant to the provisions of Section 4838 of the Public Utilities Code.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That the application of Daniel D. Byrnes, doing business as California Trucking Exchange, for a license to act as a motor transportation broker, as defined in Section 4803 of the Public Utilities Code, is granted for the exercise of the privilege sought as specifically limited herein and in ordering paragraphs Nos. (2) and (3) hereof, subject to the following conditions:

- (a) That said licensee shall keep his license certificate as a motor transportation broker posted at his authorized place of business so that it is readily available to public inspection at all times.
- (b) That said licensee shall do business as a motor transportation broker only at 619 Belmont Avenue, Fresno, California, until otherwise authorized by the Commission, and for motor carriers set forth in this order in its present form or included by amendment as hereinafter provided and charging therefor not to exceed 5% as a commission.

(2) That the license of said applicant shall authorize him to negotiate for, furnish or provide transportation over the public highways in interstate commerce of unmanufactured agricultural commodities which are exempt from regulation by Section 203 (b)(6) of the Interstate Commerce Act and stated in Determination of Exempted Agricultural Commodities, 52 M.C.C. 511, on behalf of said motor carriers who hold no certificates or permits from the Interstate Commerce Commission or this Commission and who are insured or for whom applicant shall procure cargo insurance equal to the value of the cargo, provided insurance in the sum of \$10,000 shall suffice.

(3) The names of the motor carriers for whom applicant may perform said services are as follows: Ray Niswanger dba Niswanger Truck Service, Alan E. Webster, A & N Wholesale Meat & Food Products Company, Lester Adcock, Alladin Produce Company, Allied Aircraft Company, American Red Ball Transit Co., American Snuff Co., Frank Antkiewicz, B & G Carriers, Inc., B. T. Transport, Cline Bailey, Roy Barsh, R. S. Bates, C. C. Bearden, C. L. Beatty, D. R. Beaver, Harold Beck, Bedford Truck Lines, Bills & Bills, E. E. Black,

J. M. Blythe, C. O. Boggs, Lloyd Booth, Paul Bramel, Ray Brent,  
R. A. Brooke, A. J. Buckey, Bardick Commodities Co., A. L. Burgess,  
B. G. Burloson, Robert Burns, R. J. Burnside, G. P. Butler, J. L.  
Calvert, A. B. Campbell, Lonnie Case, W. F. Castleberry, D. F.  
Chandler, Charles Cline, B. J. Coleman, John E. Collings, Ray  
Collings, F. O. Cook, F. A. Cowart, Noble Crowder, W. E. Dancy,  
Deck Produce Co., Max De Florin, Ray De Gross, D. J. & M Refer.  
Service, Joe Dorsey Produce Co., Dubuque Packing Co., Ray Echternach,  
J. A. Donaldson, James Ellis, Carl Ellison, Howard Elliott, Elsa  
Canning Co., Barr Ewing, Farmers Mkt. & Supply Co., Frank Farr,  
Eugene Finn, Fisher Cheese Co., Clarence Fletcher, R. T. Floyd,  
C. W. Fowler, Charles P. Franks, French Bros., D. P. Frye, L. D.  
Gallini Produce Co., David Gaylor, John Gies, Gene Gillespie,  
R. O. Gist, A. Glover, R. C. Glover, W. A. Goddard, Golder Bear  
Produce Co., W. B. Gray, Jr., A. R. Griffith, Growers Marketing  
Assn., D. D. Harker, Ernie Fyke, Dick Haro, Clyde Harris, Leonard  
Hansen, Hartwell Brothers, J. L. Haskins, F. L. Heath, William  
Heath, C. C. Henderson, R. T. Hendon, Hickman Produce Co., J. M.  
Highfill, Highland Park Transfer Company, H. W. Hill, A. L. Hogan,  
J. M. Hogue, Hollywood Candy Company, Charles Hoover, Hormel  
Packing Co., Horton Brothers, John Howell, John Hoyle, Ardith L.  
Hudson, Art Hyer, Idaho Pacific Freight Lines, Charles Inks,  
Inland Freight Lines, W. H. Inmon, Interstate Brokers, Inc., Irby  
Produce Co., Owen Isaacks, Paul Jackson, Woody James, Loren Jerdet,  
Jesco Lubricant Co., W. R. Jett, Jr., Johnson, C. C., Jahries  
Brothers, Virgil Jenkins, J. D. Jewell, Inc., Edward W. Johnson,  
Joe Johnson, J. R. Johnson, Robert Johnson, Robert E. Johnson,  
W. A. Johnson, William Johnson, Lloyd Johnson, Evelyn Jones, Jones  
Poultry Company, R. T. Jurma, W. H. Kale, J. C. Kelly, Jim Kelly,  
O. D. Kelly, O. T. Kelly, George Kennedy, Kenocha Auto Transport  
Corp., Kerwin Tent & Awning Co., John A. Kessler, Bill Kidd,

W. H. Kimbrough, Willard Kindle, Kingan & Company, Charles E. Kline, Walter Kniaz, E. W. Knight, C. Kraus, Glenn Lafferty, H. J. Lagali, E. R. Lambert, L. M. Lasater, T. J. Ledbetter, M. A. Lenney, Fred Lester, Phil Lewis, Dee Lindsay, Lipsman-Fulkerson Truck, Little Audrey Transportation Co., J. C. Lovelace, Lundeen & Cox, W. G. & B. D. Lundy, Glenn Magers, W. H. Mahlman, Marquart Refer Service, H. Marshall, James Mathis, Lester McCormick, Ira Mentzner, Miles Mesenbring, Hal Mestre, H. L. Meyers, W. R. Michaels, Missouri Valley Transportation Co., Bob Monahan, Monarch Egg Company, J. A. Morgon Produce Co., J. W. Mowry, Mural Truck Service, L. W. Murray, Arthur Nalick, Dominick Nalick, Angelo Napoli, A. Needham, Duane Nelson, Leo Neugebauer, Marvin J. Nielsen, Ray Niswanger, Nurre Company, Everett Oakes, John Oats, L. A. Odom, Pacific Coast Motor Freight, Wm. A. Patterson, Patton & Boyd, A. M. Penny, W. M. Peratt, W. L. Perkins, Perper Brothers Produce, Lawrence Perry, Vernon Peterson, Otto Pirkle, Plough Sales, Inc., Prairie Kist Foods, Inc., Earl Prevatt, Puri Trucking Co., Quality Foods, Inc., Jesse J. Quebedeaux, H. D. Querner, W. A. Querner, Rath Packing Co., Raymond Laboratories, Inc., Reber Brothers, Refrig. Food Distributors, W. R. Reynolds Produce Co., Jack Reeves, Ben Richbourg, W. A. Riddle, Rollette Bros., Raymond H. Roberts, Sylvan Rude, Rosenthal Packing Co., S. & D. Produce Co., A. V. Sampson, W. H. Sanders, W. J. Sheffield, Satterfield & Jackson, Safeway Truck Lines, Inc., Otto Schluter, Schultz Produce Co., Thomas Schware, Select Foods, Inc., C. G. Smith, Smith Canning Co., A. L. Solomon, Southern Canning Co., Southern Sash Sales & Supply, James L. Sparks, Howard Spray, L. J. Spray, Charles Stanford, Paul Stanford, O. L. Standish, Stoller Fisheries, Inc., Burnham Stokes, A. L. Straub, M. M. Styles, Tapper Transfer Co., Durwood Taylor, J. B. Taylor, R. E. Taylor, Keith Tedder, Tel-Radio Transport Corp., Arthur Terrell, Otis Thomason, Norman Thagard, Tozzi Brothers, Tobin Packing Co., G. W. Touchstone,

J. W. Trammell Produce Co., E. T. Trantham, John C. Thompson, Tri-State Packing Co., Tri-State Transfer Co., W. E. Thompson, Jr., Rudy Vasacek, H. R. Vedder, Ewol Villines, Virgil Vinos, Warlick's Food Express, A. Watson, Kenneth Welborn, Lyle Welch, N. W. Weltig, Western Auto Transport Co., Western Refrig. Truck Line, Claude Widener, Virgil Williams, M. L. Wilkerson, H. A. Wilson, John L. Winters, B. W. Witherspoon, A. G. Wise, L. C. Woodall, G. A. Wright, C. Yoder, Zero Refrig. Lines, Henry Zick, Tom Alexander, Norman Bogard, William J. Galamb, Russ Hoffman, Steve Hopper, Howell & Lemon, Chester Hulme, Virgil Jenkins, Mosely Bros. Trans. Co., Dominiel Napoli, Louis M. Reed, Thos. F. Riddell, Carlin Simpson, George Tjossem, Va. Tent & Awning Co., Oliver Wood, Floyd Whitworth and all other names which may be included in this order by amendment effected by applicant's stating their names and addresses in one or more letters addressed to this Commission and duly deposited in the U. S. Mails with appropriate stamps affixed to such letter or letters and such mailing shall be completed prior to the performance of any transportation arranged by applicant.

(4) That the Secretary of the Public Utilities Commission is hereby authorized and directed to issue and deliver to Daniel D. Byrnes doing business as California Truck Exchange the license certificate to be in the form heretofore adopted by the Commission for such license certificate and subject to the conditions hereinabove set forth and provided that the names of the motor carriers applicant is authorized to serve need not be set forth therein but in the space provided in said certificate for said names there shall be stated the following:

"Licensee is authorized only to negotiate for or hold himself out as one who furnishes or provides transportation in interstate commerce over the public highways as a motor transportation broker on behalf of the motor carriers now included in the order of the Public Utilities Commission granting this license or subsequently included by amendment."



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

Dated at San Francisco, California, this 13<sup>th</sup> day of January, 1953.

R. J. Dunsen  
PRESIDENT  
Harold A. Hall  
F. J. Patten  
John L. Mitchell

COMMISSIONERS

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