

ORIGINAL

Decision No. 49132

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of R. KARLSON and G. KARLSON, doing)
business as KARLSON BROS. TRUCKING)
SERVICE, for a Certificate of Public) Application No. 32276
Convenience and Necessity to operate)
as a Highway Common Carrier between)
various points in California.)

Willard Johnson, for applicants.
Frederick W. Meilke, for Delta Lines, Inc.;
N. R. Moon, for Merchants Express
Corporation; C. A. Millen and F. E. Ward,
for Valley Express Company and Valley
Motor Lines; Frederick E. Fuhman, for
Southern Pacific Company and Pacific
Motor Trucking, protestants.

OPINION ON REHEARING

R. Karlson and G. Karlson, doing business as Karlson Bros. Trucking Service, by Application No. 32276, sought authority to operate as an on-call highway common carrier for the transportation of general commodities, with certain exceptions, in shipments of 20,000 pounds or more or where transportation charges are based upon a minimum of 20,000 pounds, and pallets and empty containers, including boxes, barrels, kegs, pails, drums, cylinders, cans, crates and cartons (set up), in any quantity, between numerous points in Central California bounded generally by Sacramento and points within 15 miles laterally thereof, on the north; San Francisco Territory as defined in Highway Carriers' Tariff No. 2 and Cotati, on the west; Sonora and points within 25 miles laterally thereof, on the east; and Merced and points within 15 miles laterally thereof, in the south.

The Commission in Decision No. 47877, dated October 28, 1952, denied such application. Thereafter, in response to a petition

for rehearing filed herein on November 7, 1952, the Commission issued an order, dated January 19, 1953, granting rehearing and pursuant thereto public hearings were held before Examiner Silverhart at San Francisco, Stockton and Manteca on March 10, July 29, July 30, August 19 and September 11, 1953. Oral argument was had on September 21, 1953, on which date the matter was submitted.

The proposed service will generally continue applicants' present operating procedures at the rates, with certain exceptions, contained in Highway Carriers' Tariff No. 2.

The record discloses that applicants possess the experience, equipment, terminals, facilities, and adequate financial resources to institute and maintain the proposed operation.

Representatives of manufacturing firms and other business establishments making shipments between or receiving shipments at (or both) points encompassed within the scope of the application testified upon behalf of applicants. Such testimony disclosed that the shipments consisted of various commodities such as cable, construction machinery, irrigation pipe, well casing, tires, truck bodies, fertilizer, automotive parts, containers, fruits and vegetables, canned goods, drugs, tobacco, groceries, meat, beverages, lumber, building materials, roofing, camp equipment and supplies, garden furniture, beds, mattresses, electric appliances, hardware, sporting goods, cement, grain, sacks, twine, seed, wool, salt, insecticides, feed and feed concentrates, wine, bottles, dishes, jam, fruit juice, corrugated boxes, wire and paper boxes. Their testimony further indicated that they had used and are using applicants' service; that applicants furnish equipment at such times, in such types as dictated by the needs of their businesses; that applicants have given service on Saturdays; that applicants' service is expeditious; that they make truckload shipments; that they make shipments

to off-highway points; that the service hitherto rendered by applicants is needed and will be used, if authorized.

At mimeographed page 6 of Decision No. 47877, it is stated that Exhibit No. 12 covers 1856 shipments and that such total was arrived at by considering multi-truckload shipments destined to one consignee as a single shipment.

The witness who prepared applicants' Exhibit No. 12 testified as to the manner of its compilation. According to his testimony he consolidated, for the sake of brevity, repetitive truckload shipments in which the same commodities were transported for the same shipper from the same point of origin to the same consignee and point of destination. The total weights were then entered in the appropriate column prefixed by a figure in parenthesis. Such figure, he stated, denoted that separate shipments were handled in the number thus indicated and each such shipment was covered by a separate freight bill.

Giving effect to such testimony produces the following result:

<u>Year</u>	<u>Number of Shipments</u>	<u>Monthly Average</u>
1946	214	18
1947	248	20
1948	1311	109
1949	238	19
1950	1273	106
1951	1988	165
First 6 Months of 1952	<u>671</u>	112
Total	5943	

Exhibit No. 12 also shows that, during the period covered thereby, applicants transported some 210 kinds of commodities and served 73 points of origin and 142 destination points.

Exhibit No. 12 now demonstrates that applicants have engaged in substantial transportation activities between points involved in this proceeding.

Protestants Merchants Express Corporation, Valley Express Company and Valley Motor Lines, Inc., did not testify or offer any witnesses in their behalf.

Protestants Delta Lines, Inc., and Pacific Motor Transport Company testified as to the areas served and type of service rendered.

It was stipulated the Southern Pacific Company provides a rail service in carload lots to and from the points included within the application.

It appears from the testimony of Delta Lines, Inc., that of all shipments it transported during the first six months of 1953 but 6-1/2 per cent thereof weighed 20,000 pounds or more and that generally less-truckload lots constituted 95 per cent of its traffic.

The testimony of a representative of Pacific Motor Transport Company revealed that generally it had not published Class A, Fifth Class, general commodity rates for shipments in excess of 20,000 pounds as to points in the application until some time subsequent to July 1953.

The evidence of applicants' past operations, taken together with the testimony of the public witnesses, demonstrates a public need for their services in the transportation of property as contemplated by the application.

After careful consideration of the entire record in this proceeding, the Commission finds that public convenience and necessity require the establishment and operation of a service by applicants as a highway common carrier for the transportation of general commodities between the points set forth in and subject to the conditions and limitations contained in the ensuing order.

Applicants are hereby placed upon notice that operative 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 and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to R. Karlson and G. Karlson authorizing them to operate as a highway common carrier, as defined by Section 2137 of the Public Utilities Code, for the transportation of general commodities and pallets and empty containers, including boxes, barrels, kegs, pails, drums, cylinders, cans, crates and cartons (set up) between:

(a) San Francisco Territory, as defined in Item 270 Series of Highway Carriers' Tariff No. 2, on the one hand, and, on the other hand, points and places on, or within 15 miles laterally of:

1. U. S. Highway 40 between San Pablo and Sacramento;
2. U. S. Highway 99 between Sacramento and Merced;
3. U. S. Highway 50 between Dublin and Stockton;
4. State Highway 120 between its intersection with U. S. Highway 50 near Manteca, and junction with State Highway 108 at Yosemite Junction;
5. State Highway 12 between Suisun-Fairfield and Lodi;
6. State Highway 4 between Pinole and Stockton;

7. State Highway 33 between its intersection with U.S. Highway 50 near Tracy, and Newman;
8. U.S. Highway 101 and State Highway 48 between San Francisco and Vallejo.

(b) San Francisco Territory on the one hand, and on the other hand, points and places as follows:

1. On or within 25 miles laterally of State Highway 108 between Yosemite Junction and Sonora;
2. Within 15 miles of Sacramento and Merced;
3. Within 25 miles of Sonora.

(c) Locally between all points embraced in subparagraphs (a) 1 to (a) 8 inclusive and (b) 1 to (b) 3 inclusive, above set forth.

(2) That the certificate herein granted is subject to the following conditions and limitations:

(a) Applicants shall not transport any shipments of livestock, uncrated household goods, liquid petroleum products in bulk, in tank trucks and tank trailers, products requiring refrigeration in transit, fresh dairy products, shipments of fresh fruits or vegetables having origin in fields of growth and consigned to cold storage, canneries, packing houses, or other processing facilities, or shipments of iron, steel, or iron and steel articles and tin plate from or to Pittsburg, California.

(b) Applicants shall not transport any shipments to and from Sharpe General Depot, Lathrop, and Sharpe Sub-Depot, Lyoth, other than lumber and forest products as defined in Highway Carriers' Tariff No. 2.

(c) Applicants shall not transport general commodities in shipments of less than 20,000 pounds or subject to a charge lower than applicable on a shipment of 20,000 pounds.

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

(a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted.

(b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicants shall establish the service herein authorized and shall file in triplicate, and concurrently make effective, appropriate tariffs satisfactory to the Commission.

(c) Subject to the authority of this Commission to change or modify them by written order, applicants may operate over and along the following only as alternate routes:

1. Any and all streets, roads and highways within San Francisco Territory;
2. State Highway 33 between Newman and Los Banos;
3. U. S. Highway 101 between San Jose and Gilroy, State Highway 152 between Gilroy and intersection with an unnumbered county road approximately 9 miles east of Dos Palos Wye, thence over said unnumbered county road between said intersection and Merced;
4. State Highway 140 between Merced and Gustine;
5. State Highway 132 between Modesto and Vernalis;
6. State Highway 24 between Oakland and Sacramento.

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

Dated at San Francisco, California, this 6th day of October, 1953.

A. J. Anderson
President

Justin F. Caswell

Thomas W. Patton

John E. [unclear]

Commissioners