

ORIGINAL

Decision No. 49247

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WALTER ALVES, an individual, doing)
business as ALVES SERVICE TRANS-)
PORTATION, for a certificate of)
public convenience and necessity)
to operate as a highway common)
carrier for the transportation of)
general commodities between the)
Los Angeles Area and the San Francisco)
Area; and fresh fruits and vegetables)
from points in Southern California)
and the San Joaquin Valley to the)
San Francisco Area, Stockton and)
Sacramento.)

Application No. 32047

Marquam C. George, for applicant.
Douglas Brookman, for California Motor Express, Ltd.,
California Motor Transport, Ltd., Pacific Freight
Lines and Pacific Freight Lines Express, William
Meinhold, E. L. H. Bissinger, and John Gordon, for
Southern Pacific Company and Pacific Motor Trucking
Company, Gordon & Knapp, by F. A. Jacobus, for
Pacific Freight Lines, Pacific Freight Lines Express,
and The Atchison, Topeka & Santa Fe Railway Company,
H. J. Bischoff, Warren V. Glass, and H. P. Merry,
for Southern California Freight Lines and Southern
California Freight Forwarders, Edward M. Berol and
Bertram S. Silver, for Fortier Transportation Co.,
O. K. Trucking Co., Sacramento Freight Lines and
Culy Transportation Co., Lloyd R. Guerra and Ralph
T. Close, for Western Truck Lines, Ltd., protestants:
C. A. Millen, for Valley Express Company and Valley
Motor Lines, Inc., interested parties.
J. T. Phelps, for Field Division, Public Utilities
Commission.

O P I N I O N

Walter Alves, an individual doing business as Alves
Service Transportation, herein requests a certificate of public
convenience and necessity authorizing operations as a highway
common carrier for the transportation of general commodities, with
certain exceptions, between San Francisco, South San Francisco
and East Bay Cities from Crockett to Newark, on the one hand, and
San Diego and the area lying between Ventura, on the north, Santa

Ana, on the south, and Redlands, on the east, on the other hand, and for the transportation of fresh fruits and vegetables, north-bound only, from most of southern California, and San Joaquin Valley points north as far as Fresno to Stockton, Sacramento, and the San Francisco Bay points above mentioned.

Public hearings were held before Examiner Gillard in San Francisco and Los Angeles, and the matter was submitted for decision on June 5, 1952.

Alves commenced his trucking experiences in 1930. From that year until 1933, he conducted his own business with three trucks, principally used for hauling produce in southern California. From 1933 to 1939 he was employed by various trucking concerns. In the latter year he again went into business for himself and operated mostly as a subhauler between San Francisco and Los Angeles. After World War II, in 1946, Alves commenced his present business with one truck. New units were added each year until in June 1951, at the time of his testimony herein, Alves owned and was operating 19 tractors, 8 trucks, and 39 semi-trailers, all 35 feet in length. He maintains leased terminals in San Leandro, Los Angeles and El Centro.

On June 30, 1950, Alves had \$269,804 in assets and a net worth of \$85,113. As of November 30, 1951 his gross assets were \$410,830 and his net worth was \$129,922. For the first six months of 1950 he received \$210,167 in gross operating revenues and retained \$21,784 net operating revenue. During the first eleven months of 1951, his gross was \$693,306 and his net revenue was \$53,516.

Applicant's rapid growth since 1946 and his good earning position indicate that he is qualified to conduct the type of business he has operated in the past. The present application is

for a certificate comparable in scope to past operations, pursuant to Decision No. 42646.

The extent of these past operations was disclosed in exhibit form for two week periods in February, June and October, 1951 and for the month of February, 1952. All freight bills for transportation services rendered within the territorial scope of the application, for the periods indicated, were listed. There were 1,347 general commodity shipments. Of these, 1,284 moved to or from points in the Los Angeles Territory, ^{1/}32 moved to or from points in the Los Angeles Basin Territory ^{1/}outside Los Angeles Territory, 30 moved to San Diego, and one from Chula Vista.

The 32 Basin shipments segregate as follows: 14 shipments (l.t.l.) of auto parts and steel from Ontario to Richmond and Oakland, 9 shipments (t.l.) of sugar from San Francisco and Crockett to San Bernardino, Riverside, Ontario, Pomona and Glendora, 2 shipments of beer (t.l.) from San Francisco to San Bernardino and Azusa, 2 shipments (l.t.l.) of auto parts from Whittier to Richmond, 2 shipments (l.t.l.) of fluorescent fixtures from Oakland to Placentia, 2 shipments (l.t.l.) of auto parts from Brea to Oakland, one shipment (l.t.l.) of empty boxes from Redlands to Oakland.

The 30 San Diego shipments were all in truckload quantities. Of these, 24 consisted of crackers, all from one Oakland consignor. There were also 2 shipments of beer, 2 shipments of sugar and 2 shipments on government bills of lading to the San Diego Naval Training Center.

The exhibit also disclosed 134 shipments of fresh fruits and vegetables, moving principally to Oakland, San Leandro and

^{1/}As described in Item 270 Series of Highway Carriers' Tariff No. 2.

San Francisco. Richmond received 2 shipments and Alameda one. Points of origin and number of shipments were as follows: 51 shipments from Los Angeles Territory points, 27 shipments from other Los Angeles Basin Territory points (Riverside, Redlands, Claremont, La Verne, Arlington, Upland, Mentone, Bryn Mawr, Pomona, Puente, Placentia, Fullerton and Glendora), 25 shipments from El Centro and Holtville, 14 shipments from Ventura County points (Piru, Fillmore and Oxnard), 8 shipments from San Joaquin Valley points (Ivanhoe, Exeter, Orosi, Lemoncove and Fresno), 6 shipments from Blythe, 3 shipments from Indio.

Public witness testimony confirmed, for the most part, the pattern of service revealed by this exhibit. Twenty shippers or receivers of general commodities testified as to their past use of Alves. Seventeen of these had freight moving between points in Los Angeles Territory, on the one hand, and San Francisco, Oakland, Richmond, Berkeley, Emeryville, San Leandro, and Hayward, on the other.

Concerning the other three shippers, the following situations were disclosed: One shipped crackers daily from Oakland to Los Angeles, and twice a week to San Diego. Alves transported all of these for a period of 18 months except two loads to San Diego by Culy Transportation Co. The latter service was satisfactory. Another shipped sugar from San Francisco and Crockett to numerous Los Angeles Basin Territory points and San Diego in truckload lots. Alves gets some of the San Diego shipments but Culy takes most of them. These would move by rail unless the motor carrier published a competitive rate. Alves testified he would not publish a rail competitive rate. The last witness uses Alves extensively between Richmond and Los Angeles and Long Beach. This concern also receives supplies on occasion from Whittier and Ontario.

All of these witnesses have used Alves in the past for periods of time ranging up to six years. Most of them use him exclusively or on all shipments where they control the routing. Others use him only as one of several primary carriers or only at consignee request. All asserted he gave a very satisfactory service and some claimed his performance was outstanding. He renders an overnight service consistently and just as consistently makes delivery early in the morning when it is requested. He is very prompt in responding to calls for pickups and loads his vans without requiring the materials to be specially packaged or crated. All would continue to use his services if he receives a certificate herein and most said that the continuance of such service was necessary to their businesses.

Eight witnesses who have been transporting fresh fruits and vegetables by Alves testified herein on his behalf. Most of them are using applicant either principally or exclusively and have done so for periods ranging up to three years. His service has been very satisfactory and all want it continued.

Destination points on these shipments were mainly San Francisco, Oakland and San Leandro. Two witnesses stated they also had some shipments moving to Sacramento and Stockton. Points of origin were the San Diego area, Imperial and Coachella Valleys, Los Angeles to Redlands area, San Joaquin Valley points Bakersfield to Fresno, and Ventura County points.

Pacific Freight Lines, California Motor Express and California Motor Transport, Sacramento Freight Lines, Culy Transportation Co., Southern California Freight Forwarders and Southern California Freight Lines, presented operating testimony relative to their highway common carrier services. P.F.L., Cal Motors and Southern Cal have large fleets of equipment and numerous terminals.

or agency stations. They provide complete pickup and delivery services in the Los Angeles and San Francisco metropolitan areas. The service proposed by applicant herein and as rendered by him in the past has been developed by him during the existence of the extensive services of these protestants. None of them claimed any impairment by virtue of applicant's activities.

Sacramento Freight Lines operates between Sacramento and Los Angeles and Culy between San Francisco and San Diego. These services will not be affected materially by the authority granted herein to Alves because his evidence, as hereinafter discussed, does not justify a certificate to serve Sacramento and Stockton, or San Diego on general commodities.

Applicant's evidence on general commodities was limited largely to service between Los Angeles Territory and San Francisco Bay points. Concerning San Diego he transported 2.2 per cent of the general commodity shipments shown on his exhibit. He moved nothing northbound, and two shippers testified concerning southbound movements. One shipped sugar and would not use Alves in the future because a rail competitive rate will not be published. The other shipper (of crackers) has used Culy and found that service satisfactory. A one-way movement for one shipper does not denote public convenience and necessity.

Relative to Los Angeles Basin points Alves transported 2.4 per cent of the general commodity shipments disclosed on the exhibit. Two shippers testified concerning this area. The same shipper of sugar had occasional truckloads to points in this area. Another shipper had scattered northbound shipments from Ontario and Whittier. This evidence is likewise insufficient for a certificate.

The exhibit referred to disclosed no shipments of fresh fruits and vegetables to Sacramento or Stockton, although two shippers mentioned these points as being served by them. Their principal movements, however, were to Bay Area points. No testimony was presented relative to Blythe, although a few shipments from there were shown on the exhibit. A stronger showing should have been made relative to this remote area. As to freight other than automobile parts, accessories and equipment, and steel parts and products, the applicant has shown neither the desire nor the ability to handle shipments in quantities of less than 5,000 pounds.

Concerning the other points mentioned herein and in the ensuing order, we find that public convenience and necessity require that the application be granted.

Walter Alves is 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 in the above-entitled proceeding 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 Walter Alves authorizing

the establishment and operation of a service as a highway common carrier (as defined in Section 213 of the Public Utilities Code) for:

(a) the transportation of general commodities, except uncrated furniture and household goods, liquids in bulk, livestock and fresh fruits and vegetables, between San Francisco, Oakland, Emeryville, Berkeley, Richmond, Crockett, San Leandro and Hayward, on the one hand (hereinafter called San Francisco Bay points) and Los Angeles Territory, as defined in Appendix "A" attached hereto, on the other hand, provided, however, that except freight consisting of automobile parts, accessories and equipment, and steel parts and products, no shipments of less than 5,000 pounds in weight may be carried, and

(b) the transportation of fresh fruits and vegetables, in shipments of not less than 5,000 pounds, to San Francisco, Oakland, Alameda, San Leandro and Richmond, from the Los Angeles Territory, as defined in Appendix "A" attached hereto, from San Diego and all points and places within 25 miles thereof, from U. S. Highway 99 points Indio to El Centro, inclusive, and all points and places within 25 miles of such highway, from U. S. Highway 99 points Los Angeles Territory to Redlands, inclusive, and all points and places within 25 miles of such highway, from State Highway 126 points Ventura to Piru, inclusive, and all points and places within 25 miles of such highway, and from U. S. Highway 99 points Bakersfield to Fresno, inclusive, and all points and places within 25 miles of such highway.

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

(a) Within thirty days after the effective date hereof, applicant 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, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

All highways mentioned in paragraph (1) hereof; within Los Angeles Territory and between San Francisco Bay points: all available highways; between Los Angeles Territory and San Francisco Bay points: U. S. Highways 101, 99 and 50 and State Highways 120, 9 and 17; between Los Angeles and San Diego: U. S. Highway 101; between Piru and junction U. S. Highway 99: State Highway 126; between Redlands and Indio: U. S. Highway 99.

(3) That in all other respects the application is hereby denied.

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

Dated at Los Angeles, California, this 27th day of October, 1953.

R. J. [Signature]
President

Justus J. [Signature]

[Signature]

[Signature]

[Signature]
Commissioners

APPENDIX "A"

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northeasterly along Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U. S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.