

ORIGINAL

Decision No. 50547

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
WEST COAST FAST FREIGHT, INC., for a )	
certificate to operate as a Highway )	Application No. 33606
Common Carrier of general freight with )	
some exceptions between the Los Angeles )	
area and the San Francisco area. )	

Arthur H. Glanz and Theodore W. Russell for applicant.

James H. Rodes and H. P. Merry for Southern California Freight Lines and Southern California Freight Forwarder; Frederick E. Fuhrman for Southern Pacific Company, Pacific Motor Trucking Company and Pacific Electric Railroad Company; Robert W. Walker and Wallace L. Ware for the Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company; H. S. Scott and Frank A. Paras for Sterling Truck Company; Ballard E. Rowland for Willig Freight Lines; Robert B. Lytel for Consolidated Freightways; M. D. Savage for Savage Transportation Company; Ray E. Untereiner for Charles F. Hart Transportation Company; Warron H. Biscailuz and Gordon, Knapp and Gill by Joseph C. Gill for Pacific Freight Lines and Pacific Freight Lines Express; Douglas Brookman for California Motor Express, Ltd., California Motor Transport, Inc., Willig Freight Lines, Consolidated Freightways and Savage Transportation Company; Lloyd R. Guerra for Western Trucking Company, Ltd.; C. A. Millen for Valley Motor Lines and Valley Express Company; Jerome B. Hannigan for Associated Freight Lines; Marvin Handler for Machado Trucking Company; protestants.

J. T. Phelps and J. E. Thompson for the Commission's staff.

O P I N I O N

By its application filed July 25, 1952, applicant, West Coast Fast Freight, Inc., seeks authority to operate as a highway common carrier between the Los Angeles territory, on the one hand, and San Francisco, South San Francisco, Oakland, Alameda, Berkeley, San Pablo, El Cerrito, Emeryville, Richmond, San Leandro, Albany and Piedmont (hereinafter at times referred to as Bay Area), on the other hand.

Twelve days of public hearings were held before Examiner Daly at San Francisco and Los Angeles. The matter was submitted

following oral argument on October 1, 1953.<sup>(1)</sup>

Applicant is presently engaged as a common carrier in the transportation of general commodities moving in interstate commerce between points in California, Oregon, Washington and Montana. It commenced operations on June 1, 1944, as the successor of Collette Fast Freight. Intrastate operations are performed primarily between the points for which a certificate is sought. Applicant possesses Radial Highway Common Carrier Permit 19-33214 and Contract Carrier Permit 19-33215 both issued February 11, 1948. Its permitted operations are assertedly a continuation of those performed by certain predecessors in interest; namely, System Arizona Express, later known as System Freight Service, and S. O. Dimmick doing business as United Freight Forwarders.<sup>(2)</sup>

(1) Hearings were held on December 9, 10, 1952, March 9, 10, 1953, June 9, 10, 11, 1953, at San Francisco and March 11, 12, 1953, August 11, 12, 13, 1953, and October 1, 1953, at Los Angeles. The submission date was actually delayed to December 8, 1953, for the purpose of receiving Exhibit 71, which was a late-filed exhibit by the Commission staff.

(2) The following is a tabulation of gross revenue derived under its permits by applicant and its predecessors for certain yearly quarters:

<u>Quartor</u>	<u>Year</u>	<u>S. O. Dimmick</u>	<u>System Freight</u>	<u>West Coast</u>
1	1943	\$16,008	\$ 1,548	-
1	1945	14,864	19,110	-
3	1945 Final Report	7,606	21,989	-
4	1945	-	23,048	-
3	1946	-	9,113	-
4	1946	-	251	-
2	1947	-	Final Report 84	-
1	1948	-	-	2,453.44
4	1949	-	-	491.99
3	1950	-	-	27.17
2	1951	-	-	23,609.25
2	1952	-	-	69,308.05
3	1952	-	-	55,438.25

As justification for the authority sought applicant alleges that it and its predecessors have performed intrastate service between the Los Angeles Area, on the one hand, and the Bay Area, on the other hand, continuously for many years; that the demand for said service has increased yearly despite the grant of additional certificates since 1949; that applicant's service meets a need for many shippers who use applicant in both interstate and intrastate commerce; that the continued growth and development within the proposed areas has caused a steadily increasing demand for applicant's intrastate service; that applicant is unable to determine what service it may or may not perform under its permits and that it desires to perpetuate its present service as a highway common carrier.

The record demonstrates that applicant is capable of providing the proposed service. It has adequate financial ability, equipment and facilities. Applicant proposes a daily overnight service Monday through Saturday. A minimum of one schedule nightly would be operated in each direction with departure from Los Angeles and the Bay Area at approximately 7 P.M. These schedules would arrive by approximately 10:00 A.M. and deliveries would be accomplished in the forenoon and early afternoon. Additional schedules would be operated as traffic conditions warrant. A complete pickup and delivery service would be provided in the proposed areas. The proposed rates would be the same as those set forth in Highway Carriers' Tariff No. 2.

A total of forty public witnesses testified on behalf of applicant; twenty at San Francisco and twenty at Los Angeles. A substantial number are presently being served under permits. In general they stated that they use applicant on shipments moving in interstate commerce to points in the Pacific Northwest as well as intrastate between the points herein considered. They found it a

convenience to use one carrier to as many points as possible. This was of particular importance to those witnesses with limited dock facilities. The service was assertedly overnight and dependable. Pickup service is provided as desired. In many instances when shipments were not ready applicant's drivers returned at a more convenient time. Several witnesses stated although they have never requested a daily pickup, applicant's drivers have called by to inquire whether they have shipments to make. The drivers are courteous and co-operative prompting a few to remark that they were like their own employees. The majority of the witnesses testified that in addition to applicant they had used one or more of the existing carriers. However, being satisfied with their present arrangements, they had made little or no investigation to determine what other certificated services were available.

Occasional complaints as to the operations of the existing carriers were voiced. They related to delays in transit, slow pickup service, inconvenient pickup schedules, discourteous drivers, unsatisfactory claims experiences and failure to provide suitable equipment. On the other hand, many testified they had absolutely no complaints and to the extent to which they used the existing carriers they found them to be adequate and satisfactory.

A document entitled, "Statement of Intrastate Shipments Handled by West Coast Fast Freight, Inc., During the First Five Days of Each Month January Through November, 1952", was received in evidence as Exhibit 18. It consists of information pertaining to approximately 1,290 less-than-truckload shipments of general commodities transported by applicant between the Los Angeles and Bay areas.

Applicant introduced four exhibits (22, 23, 24, 25), which convincingly reflect the growth and development of the proposed

areas since 1940. The exhibits were prepared by and introduced through Dr. Richard R. Mead, Professor of the Marketing School of Commerce, University of Southern California.

The services of protestants were described in detail. They possess large fleets of equipment and extensive terminal facilities. The record discloses that there are in excess of fifteen certificated carriers presently operating between the proposed areas and for the most part rendering an adequate service.

Protestants take the position that if applicant is certificated a substantial amount of traffic will be diverted to it from them. The effect of this, they claim, could lead to a curtailment of service or increased rates. Applicant's operations, they argue, are of recent origin and unlawful, having intentionally and flagrantly been developed for the purpose of predicated a showing of public convenience and necessity under the so-called liberal policy decision of 1949. The 1949 decision, they contend, was applicable to the permitted carriers then operating and was not intended as a continuing invitation to unlawfully develop and extend services under the guise of permits for the purpose of subsequently acquiring certificates. Protestants characterized applicant's operations as personal. They asserted that it could not continue the same service as a highway common carrier without discrimination.

Applicant asserts no shut-off date was mentioned in the 1949 policy decision. It argues that if one were so construed it would not be material, because its operations are a continuation of those performed by its predecessors.

Reference was made to Application No. 27572, filed in June 1946, by System Freight Service to operate as a highway common carrier between the points here involved. Applicant withdrew the

application in 1948 following its acquisition of System Freight Service. It stated that it was not prepared at that time to concentrate on the intrastate aspect of its operations and in addition did not wish to obtain a certificate by "riding on the coat tail" of its predecessors.

Applicant asserts that the possibility of diversion is negated by the fact that it is already in the field as a permitted carrier and certification will not change the competitive picture. It points out that although the existing carriers may not be inadequate, the fact that a permitted carrier can attract business in a competitive field indicates the existing service is wanting in some respects. Applicant further asserts that because it is meeting the needs of many shippers and receivers of freight as a permitted carrier it should be allowed to continue serving them as a certificated carrier. To grant the application, it contends, would bring a substantial volume of freight under common carriage with resultant permanence of service.

Applicant's intrastate operations are not a continuation of its predecessors in interest. S. O. Dimmick ceased operating in 1945 and for all practical purposes System Freight Service ceased operating in 1946. Applicant admitted that it requested the dismissal of Application No. 27572 in 1948 because it was not prepared at that time to concentrate on intrastate operations. It was not until 1951 that applicant decided to concentrate on rendering such service.

The record indicates that applicant is providing a highly satisfactory and desired service, one which fills a need and more completely serves that portion of the public which has used it. Regardless of the interpretations of the 1949 policy decision contended for, the Commission, after consideration of the evidence, is of the opinion and so finds that public convenience and necessity require the granting of the authority sought.

O R D E R

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

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to West Coast Fast Freight, Inc., authorizing it to operate as a highway common carrier for the transportation of general commodities, (except uncrated household goods and other commodities for which the Commission has prescribed minimum rates in Appendix A, Decision No. 44919, City Carriers' Tariff No. 3-A - Highway Carriers' Tariff No. 4-A; livestock; commodities in bulk; articles of extraordinary value; commodities injurious or contaminating to other lading) as follows:

Between the Los Angeles Territory as defined in Item 270-a of Highway Carriers' Tariff No. 2, on the one hand, and Oakland, San Francisco, South San Francisco, Alameda, Berkeley, San Pablo, El Cerrito, Emeryville, Richmond, San Leandro, Albany and Piedmont, on the other hand.

(2) That in providing the service herein authorized West Coast Fast Freight, Inc., shall 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 appropriate tariffs.

(c) Subject to the authority of this Commission to change or modify such at any time, applicant shall conduct said highway common carrier operations over and along all routes lying between the Los Angeles Area as defined, on the one hand, and the Bay Area points, on the other hand.

The effective date hereof shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of September, 1954.

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

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Commissioners