

effects. Likewise, each petitioner is the holder of a permit to engage in the transportation for compensation of used household goods and personal effects under the provisions of the Household Goods Carriers' Act, and also the holder of one or more permits under the Highway Carriers' Act. Three of the petitioners, Bekins Van Lines, Inc., Calmay Van Lines, Inc., and Lyon Van Lines, Inc., request that their certificates be suspended for a period of two years, and the remaining four petitioners request that the rates filed under their certificates on all shipments of used household goods and personal effects weighing less than 8,000 pounds be suspended.

The stated purpose of the application is to place all carriers of used household goods under identical regulatory requirements. During the 2-year suspension of the certificates of Bekins Van Lines, Inc., Calmay Van Lines, Inc., and Lyon Van Lines, Inc., and the suspension of the rates of the other four petitioners, it is anticipated that statutory changes will be effected so as to clarify the status of household goods carriers in the State of California. The reason that four of the petitioners do not request suspension of their certificates is that these certificates are registered with the Interstate Commerce Commission and under such registration the petitioners are authorized to transport interstate shipments within the State of California. The three petitioners who request suspension of their certificates have certificates from the Interstate Commerce Commission and, accordingly, their intrastate certificates are not registered with that federal body.

Under date of January 30, 1957, in Application No. 38780, United California Express & Storage Co. requested that its certificate of public convenience and necessity be suspended for a period of two years. This company holds a certificate of public convenience

and necessity authorizing the transportation of used household goods and also holds a permit under the Household Goods Carriers' Act. In addition to this it has a certificate from the Interstate Commerce Commission. Its position is similar to the position of Bekins Van Lines, Inc., Calmay Van Lines, Inc., and Lyon Van Lines, Inc., in Application No. 38454.

In Case No. 5854, on November 27, 1956, this Commission issued an order instituting investigation "to determine whether or not or to what extent, if any, the certificates of public convenience for the transportation of used household goods and personal effects by the highway common carriers named in Appendix A, who are hereby made respondents, should be revoked, suspended or otherwise amended." The respondents in Appendix A include all of the applicants in Application No. 38454 and Application No. 38780, as well as other carriers of household goods operating under authority of this Commission.

A public hearing was held in Los Angeles on March 5, 1957, before Examiner Grant E. Syphers, at which time evidence was adduced and the matter submitted.

At the hearing it was the position of the applicants that there is uncertainty among the carriers as to the position of household goods carriers under the existing California statutes. All of the carriers in these proceedings conduct operations as highway common carriers as that term is defined in Section 213 of the Public Utilities Code. Each of them has authority to conduct such operations under the provisions of Section 1063 of the Public Utilities Code. In 1951 the Household Goods Carriers' Act became part of the law of California, and under the provisions of that act carriers who

met the requirements thereof could and did obtain permits to conduct operations as household goods carriers.

It is the position of the applicants that this Household Goods Carriers' Act applies to the exclusive transportation of "used household goods and personal effects, office, store, and institution furniture and fixtures over any public highway in this State." (Section 5109, Public Utilities Code.) Section 5112 of the Public Utilities Code provides as follows:

"The regulation of the transportation of used household goods and personal effects, office, store, and institution furniture and fixtures in a motor vehicle or motor vehicles being so used exclusively, over any public highway in this State shall be exclusively as provided in this chapter. Any provision of the Public Utilities Act, City Carriers' Act, or the Highway Carriers Act in conflict with the provisions of this chapter is superseded and repealed." (Amended 1951, Ch. 1726; 1955, Ch. 783.)

While this section purports to supersede and repeal any conflicting provisions of the Public Utilities Act or the Highway Carriers' Act, it is the position of the applicants that it did not repeal statutory authority under which certificates of public convenience and necessity had been granted to transport used household goods.

Testimony was presented to the effect that it is desirable to have household goods carriers operate under a single type of authority. It is the present understanding of the carriers that the exclusive transportation of household goods must be performed under a household goods carrier permit and if there are mixed loads of household goods and other commodities, such transportation may be performed under other types of authority. However, there is no need, according to the testimony, for a carrier to have a certificate of public convenience and necessity for this mixed transportation in

intrastate commerce since such hauling can be performed under a radial highway common carrier permit. The only advantage of a highway common carrier certificate is that it may be registered with the Interstate Commerce Commission under the provisions of the second proviso of Section 206(a)(1) of part 2 of the Interstate Commerce Act (49 U.S. Code, Section 306). However, such registration can only be effected by carriers who operate "solely within any State." Furthermore, according to this record some of these carriers now have certificates from the Interstate Commerce Commission and accordingly do not need to register their intrastate certificates. Others of the carriers intend to apply to the federal commission to obtain certificates.

Exhibit No. 1 shows a number of representative trips hauled by Bekins Van Lines, Inc., during the last quarter of 1956 under its certificate of public convenience and necessity; Exhibit No. 2 shows similar information for Lyon Van Lines, Inc.; Exhibit No. 3 shows similar information for Calmay Van Lines, Inc.; and Exhibit No. 4 for James Van Lines.

It was stipulated that the testimony of other parties to the proceeding would be cumulative and accordingly the testimony submitted was representative of all of the carriers herein involved.

After the passage of the Household Goods Carriers' Act this Commission instituted a proceeding on its own motion "to consider questions of construction, application and procedure pertinent to the administration of the Household Goods Carriers' Act ..." As a result of this proceeding a decision was issued in which the Commission expressed the opinion that the Household Goods Carriers' Act applies to transportation of household goods in a vehicle which has no other commodities on it at the time of such transportation. If a carrier

desires to transport mixed loads of household goods and fixtures and other types of freight, this transportation cannot be performed as a household goods carrier (Decision No. 46571, dated December 18, 1951, in Case No. 5331; 51 Cal. P.U.C. 333).

It is noted that the carriers herein, upon the suspension of their certificates, propose to transport household goods under the authority of existing permits as radial highway common carriers. The principal distinction between a radial carrier and a highway common carrier is that the latter conducts service between fixed termini and over a regular route (Nolan vs. Public Utilities Commission 1953, 41 Cal. 2d, 392). From the very nature of the transportation of household goods it is obvious that such transportation is largely of an irregular nature. The household goods carrier serves most of its shippers on a one-haul basis. There is no hauling over regular routes or between fixed termini so far as any particular shipper is concerned. Therefore, there is no reason why this hauling cannot be performed as a radial highway common carrier.

Upon this state of the record and in view of the existing law, we find that the applications to suspend certificates of public convenience and necessity and to suspend rates are not adverse to the public interest, and accordingly they will be granted.

While we are not the regulator of interstate commerce in this type of transportation, we are nevertheless aware of the problems encountered by carriers. Therefore, the within suspension of certificates and of rates is based upon two probabilities, (1) that the carriers involved may resolve their problems as to interstate operating rights by appropriate applications to the federal

commission, and (2) that the carriers involved be given an opportunity to secure any clarification of the existing California laws in this respect.

As to the respondents in Case No. 5854 who were not also applicants in Applications Nos. 38454 and 38780, the ensuing order will direct each of them to file a statement setting out any objections each may have to a suspension of its certificates of public convenience and necessity so far as authority to transport used household goods and personal effects is concerned.

O R D E R

Applications as above entitled having been filed, an order of investigation as above entitled having been issued, public hearings having been held thereon, and the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED:

1. That the certificates of public convenience and necessity listed in Appendix A, attached hereto, be and they hereby are suspended until June 30, 1959.
2. That the rates, rules and regulations for the transportation of used household goods and personal effects named in the tariffs listed in Appendix B, attached hereto, be and they are hereby suspended until June 30, 1959.
3. That applicants are directed to amend their tariffs to show the above ordered suspensions.
4. Each respondent listed in Appendix C, attached hereto, is hereby directed to file, within thirty days after the effective date hereof, a statement setting out any objections it may have to a

suspension of its certificates of public convenience and necessity as listed in said Appendix C, so far as those certificates relate to the transportation of used household goods and personal effects.

This order shall be interim in nature, and subject to subsequent change or modification by the Commission should it appear necessary or desirable so to do.

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

Dated at San Francisco, California, this 21st day of May, 1957.

W. E. Mitchell
 President

James H. Krenner

William J. Gole

B. H. Knudsen

E. L. Fox
 Commissioners

APPENDIX A

Bekins Van Lines, Inc.,

Decision No. 33013, dated April 16, 1940,
in Application No. 22480.

Decision No. 33694, dated December 3, 1940,
in Application No. 22480.

Calmay Van Lines, Inc.,

Decision No. 40898, dated November 4, 1947,
in Application No. 28802.

Lyon Van Lines, Inc.,

Decision No. 33006, dated April 16, 1940,
in Application No. 22588.

United California Express & Storage Co.,

Decision No. 47642, dated September 2, 1952
in Application No. 33652.

APPENDIX B

- (1) Those portions of California Movers' Tariff No. 1, Cal. P.U.C. No. 2, of California Household Goods Carriers' Bureau, T.A.L. Loretz, Agent, naming:
 - (a) All rates, rules and regulations of:
 - Bekins Van Lines, Inc.
 - Calmay Van Lines, Inc.
 - Lyon Van Lines, Inc.
 - (b) Rates, rules and regulations applicable to shipments of less than 8,000 pounds of:
 - Baker's Transfer & Storage
 - C. A. Buck
 - W. Ray James, dba James Van Lines
 - Western Van & Storage Company, dba
 - Liberty Van Lines
- (2) W. Ray James, dba James Van Lines, Local Freight Tariff, Cal. P.U.C. No. 4 (Series of Ellis Brown and P. M. Follensbee, dba Triangle Transfer and Storage Co.)
- (3) United California Express and Storage Co. Local Freight Tariff No. 4, Cal. P.U.C. No. 2 (Series of E.B. Haunschild and Chas. H. Samuels, dba U. C. Express & Storage Co.).

APPENDIX C

Baker & Stanton, Inc.,

Decision No. 52960, dated April 24, 1956,
in Application No. 37617.

J. W. Baumgardner, dba Bond Trucking Company,

Decision No. 45490, dated March 27, 1951,
in Application No. 32111.

Boyle & Son, a corporation,

Decision No. 46645, dated January 15, 1952,
in Application No. 33025

Churchill Transportation Company,

Decision No. 39348, dated August 27, 1946,
in Application No. 27767.

Thomas L. Dease,

Decision No. 50964, dated January 10, 1955,
in Application No. 36523.

Don Hemsted, dba Don Hemsted's Van and Storage,

Decision No. 44624, dated August 8, 1950,
in Application No. 30546.

Decision No. 46974, dated April 8, 1952,
in Application No. 33213.

William F. McVeigh, dba Pioneer Transfer,

Decision No. 39001, dated May 21, 1946,
in Application No. 27068.

Decision No. 40278, dated May 20, 1947,
in Application No. 28370.

Arthur Mosquiera, Sr., A. B. Mosquiera, and
Maxine Thomas, also known as Maxine Mosquiera,

Decision No. 52098, dated October 18, 1955,
in Application No. 37024.

Russell S. Stowell and Albert Compher,

Decision No. 48408, dated March 24, 1953,
in Application No. 34019.