

ORIGINALDecision No. 58058

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CAREY TRUCK LINE, INC., for the)
 extension of its certificates of) Application No. 39998
 public convenience and necessity as)
 a highway common carrier of property.)

Ivan McWhinney, for applicant.
Ted Grace, for Tidewater Oil Company; and W. Y. Bell,
 for Richfield Oil Corporation, interested parties.
Donald Murchison, for Southern California Freight
 Lines, Southern California Freight Forwarders and
 California Motor Express, Ltd.; Lowell E. Christie,
 for California Motor Express, Ltd., and California
 Motor Transport Company, Ltd.; Joseph R. Naddeo,
 for Fields Freight, Inc.; John B. Robinson, for
 Southern California Freight Lines and Southern
 California Freight Forwarders; Glanz & Russell, by
Arthur H. Glanz and R. Y. Schureman, attorneys,
 for George C. Smith, Jr., dba Smith Transportation
 Company, Constructors Transport Company and Desert
 Express; H. J. Bischoff, for Oxnard Truck, dba
Carr Bros.; and Henry M. Moffat and Robert W. Walker,
 by Henry M. Moffat, for Santa Fe Transportation
 Company, protestants.

O P I N I O N

Carey Truck Line, Inc., a highway common carrier, requests an extension of its present operating rights which would enable it to transport general commodities, with certain exceptions, between all points and places in the Southern California area which it now serves as a carrier of oil field supplies and equipment. In addition, this applicant seeks authority to carry general commodities over U. S. Highway 399 between Ventura and Maricopa.

Public hearings on this matter were held in Los Angeles on June 17, July 7, 8, August 12, 13, 14 and September 18, 1958, before Examiner James F. Mastoris.

In justification for the authority sought applicant alleges and offered proof in support thereof that because of a substantial increase in population, industry and business, during recent years, in the Southern California oil field areas there has been a continuing need and demand for motor carrier service for the transportation of general commodities. As a result of the development of these areas and the changing character of the traffic, it is claimed that numerous shippers and consignees have requested the applicant to transport general commodities from Los Angeles to the various points and places now authorized under its present certificate. The applicant presented, among other things, the testimony of 27 shipper witnesses who generally stated that they particularly desired to use applicant's services in this area. They testified in substance that in general they preferred Carey Truck Line over the other existing certificated carriers operating in this region. The preference was attributed to Carey's dependable pickup and delivery service, courteous, attentive and solicitous conduct of its drivers, with special emphasis on its efficient and expeditious handling of same day, overnight, emergency, Saturday and holiday deliveries.

In opposition to this proposal testimony was presented by the protestants, the various truck lines who conduct operations in the area, to the effect, (1) that the granting of the certificate requested would have an adverse effect upon their business, (2) that they are now rendering an adequate and satisfactory service in this area and that the proposal would constitute an unnecessary and wasteful duplication of existing truck services, (3) that the proposed service of the applicant, especially with regard to the specialized overnight operations, will not be compensatory,

(4) that the applicant's equipment, personnel and facilities are inadequate, (5) that Carey's financial position is unsound. Many of the protestants claim that they maintain an active pickup service in Los Angeles and make overnight deliveries to points north in the same manner as Carey. All protestants argue that they can handle the available business as well as any increased business that they may be offered, especially on the back-haul south bound traffic into Los Angeles.

Upon consideration of all the allegations of the application and the evidence adduced at the hearings, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. The evidence presented by Carey with respect to the oil field country located north of Los Angeles between U. S. Highway 101 and U. S. Highway 99 and surrounding areas was substantial and convincing that its services meet the actual and prospective needs of the shippers in this rapidly growing territory. It is our opinion that the applicant's overnight, emergency, Saturday and holiday operations afford advantages to the public in these regions not presently obtainable by use of the services of the protestants. It is our opinion that the extension of this carrier's rights would not be unduly prejudicial to the existing carriers and that the public interest would be better served by this additional competitive service.

However, we do not believe the evidence was sufficient to justify a grant of authority to carry general commodities from Los Angeles to points north along U. S. Highway 101 and from Los Angeles to Bakersfield over U. S. Highway 99. A large portion of

the public demand for Carey's services between these points is for freight that comes within the classification of commodities, authority for which is already possessed by the applicant; the spread of various items based on the balance of the testimony of the public witnesses was not wide enough to qualify for general commodity authorization. Moreover the motor carriers operating over these routes afford a reasonably adequate and satisfactory general commodity pickup and delivery service to Bakersfield, Oxnard, Ventura, Santa Barbara, Santa Maria and San Luis Obispo. ✓

We see no reason for extending the applicant's rights in the area south of Los Angeles because the evidence as to present and future need of shippers in this region was lacking. In view of the stipulation between the parties, applicant's proposal to carry general commodities over U. S. Highway 6 between its junction with U. S. Highway 99 near Newhall and its junction with U. S. Highway 466 at Mojave and U. S. Highway 466 from Mojave to its junction with U. S. Highway 99 at Bakersfield will be amended to eliminate this portion of its request.

It appears that the applicant possesses the experience, financial ability and equipment to institute and maintain the operations authorized herein and the resources to acquire such additional equipment as may be required to conduct such service. Its terminal facilities and personnel are adequate and suitable for the purposes proposed in this application.

Applicant is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Although the applicant has not requested in his application a redescription of his operative rights, the Commission feels that it would be appropriate at this time to restate all of the applicant's operative rights by this decision. This restatement of the operative rights, with all the additions, amendments, changes, and modifications thereto, will consist of a new certificate and an appendix in loose-leaf form and shall constitute the entire and exclusive evidence of the applicant's operative authority. Based on a finding and order of the Commission, amendments to the certificate can be accomplished by the issuance of substitute sheets to Appendix A.

In consonance with the foregoing a certificate will be granted to applicant in the order of this decision, attached to which will be Appendix A, in loose-leaf form, categorically setting forth all the points and routes of operations and the commodities authorized, together with all of the rights, restrictions, limitations and privileges applicable thereto. All presently existing certificates of public convenience and necessity or other highway common carrier operative rights held by the applicant will be revoked and annulled.

O R D E R

Public hearings having been held and based on the evidence adduced therein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Carey Truck Line, Inc., authorizing the establishment and operation of service as a highway common carrier, as that term is defined in Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof, but subject to the conditions and restrictions of said Appendix A; and that all presently existing highway common carrier operative rights held by Carey Truck Line, Inc., are hereby revoked and annulled contemporaneously with the making of the filings required by and pursuant to the provisions of paragraph 2 hereof.

2. That in providing service pursuant to the certificate herein granted, Carey Truck Line, Inc., 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. By accepting the certificate of public convenience and necessity herein extended, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

- b. Within sixty days after the effective date hereof and on not less than ten days' notice to the Commission and to the public, Carey Truck Line, Inc., shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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

Dated at San Francisco, California, this 24th day of February, 1959.

E. L. Fox
President
W. E. [unclear]
William [unclear]
Theodore [unclear]
Ernest [unclear]
Commissioners

I. General Commodities

A. Carey Truck Line, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places, and over the routes specified, as follow:

1. Between Las Cruces and Santa Maria via California State Highway 1, serving all intermediate points.
2. Between Santa Paula and Buellton via California State Highway 150, serving all intermediate points.
3. Between Castaic Junction and Ventura via California State Highway 126, serving all intermediate points.
4. Between Los Angeles and Mendota via U. S. Highway 99 to junction with U. S. Highway 466, thence via U. S. Highway 466 to junction with California State Highway 33, thence via California State Highway 33, or

Via U. S. Highway 99 to junction with California State Highway 166, thence via California State Highway 166 to junction with California State Highway 33, thence via California State Highway 33.

Provided however: Service of general commodities shall not be rendered to intermediate points over and on U. S. Highway 99 between Los Angeles and Bakersfield.

5. Between Castaic and Gorman via Old Ridge Route via Sandbergs, serving all intermediate points.
6. Between Greenfield and Taft via U. S. Highway 399, serving all intermediate points.
7. Between Bakersfield and McKittrick via California State Highway 178, serving all intermediate points.

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8. Between Devils Den and Oilfields via County Road to junction with California State Highway 41, thence via California State Highway 41 to junction with California State Highway 198, thence via California State Highway 198, serving all intermediate points.
9. Between Maricopa (the junction of California State Highways 33 and 166) and Santa Maria (junction of U. S. Highway 101 and California State Highway 166) via California State Highway 166, with service from and to all intermediate and off-route points located within a radius of 15 miles laterally of State Highway 166.
10. Between Maricopa and Ventura via U. S. Highway 399 serving all intermediate points and all off-route points located within a radius of 15 miles laterally of said U. S. Highway 399.

B. Carey Truck Line, Inc., shall not transport any shipments of:

- a. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
- b. Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, bus chassis.
- c. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
- d. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

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- e. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

II. Oil Field Equipment and Supplies

A. Further, Carey Truck Line, Inc., is authorized to transport the commodities set forth in Paragraph B between all points and places, and over the routes specified, as follow:

1. Between Los Angeles and San Luis Obispo via Washington Boulevard, or via California State Highway 26, or via U. S. Highway 66 to junction with U. S. Highway 101 Alternate, thence via U. S. Highway 101 to Alternate to junction with U. S. Highway 101, thence via U. S. Highway 101, or

Via U. S. Highway 101, or

Via U. S. Highway 6 to junction with California State Highway 118, thence California State Highway 118 to junction with U. S. Highway 101, thence via U. S. Highway 101. Service may be rendered to all intermediate points between Los Angeles and San Luis Obispo.
2. Between Los Angeles and Bakersfield via U. S. Highway 99, with service from and to all intermediate and off-route points located within a radius of 15 miles laterally of U. S. Highway 99.
3. Between Los Angeles and Newport Beach via U. S. Highway 6, Alameda Street or Long Beach Boulevard to junction with U. S. Highway 101 Alternate, thence via U. S. Highway 101 Alternate, or,

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Via U. S. Highway 101 or via California State Highway 10 to junction with Harbor Boulevard (in Anaheim), thence via Harbor Boulevard to junction with California State Highway 55, thence via California State Highway 55. Service may be rendered to all intermediate points.

4. Between junction of U. S. Highways 6 and 99 (near Newhall) and Bakersfield, via U. S. Highway 6 to junction with U. S. Highway 466, thence via U. S. Highway 466. Service may be rendered to all intermediate points.

B. Commodities authorized are:

1. Oil-, water-, or gas-well outfits and supplies, heavy machinery, pipe, steel, tanks and machinery, materials, equipment, supplies and facilities used in, incidental to, or in connection with (a) the discovery, development, production and preservation of natural gas and petroleum; (b) construction, operation, repair, servicing, dismantling and maintenance of pipelines; (c) construction, operation, repair, servicing, dismantling and maintenance of facilities for the storage of natural gas, gasoline and petroleum; and (d) construction, operation, repair, servicing, dismantling and maintenance of plants and facilities for refining, recycling, processing, repressuring and blending of gasoline, natural gas and petroleum.

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