

**ORIGINAL**Decision No. 61998

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 Loyd B. Turner, an individual doing  
 business as Blue Truck Lines to sell,  
 and Kleimer Van Lines, Inc., a  
 California corporation, to purchase  
 operative rights, and for authority  
 to file a new tariff publication  
 covering such operative rights.

Application No. 42543

Cromwell Warner, for Loyd B. Turner, applicant.  
Sam O. Sciortino, for Lads Furniture Freight,  
 Inc., and Shelton Furniture Freight, Inc.;  
Raymond M. Veltman, for Trojan Furniture Express;  
R. C. Fels, for Furniture Manufacturers  
 Association of California, interested parties.

O P I N I O N

Loyd B. Turner, doing business as Blue Truck Lines, seeks authority to transfer certain of his operating rights to Kleimer Van Lines, Inc., and to increase the presently effective rates and charges applicable to these rights. The matter was consolidated for hearing with Application No. 42442 which involves a request for authority to transfer other operating rights between the parties.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis on March 3, 1961, at Los Angeles.

Turner holds certificates of public convenience and necessity authorizing him to operate as a highway common carrier for the transportation of new household, office and store furniture. The certificate here involved authorizes Turner to operate northbound only between the Los Angeles area and various points in northern California including Sacramento, Stockton, Merced, Red Bluff and the San Francisco Territory.

The Furniture Manufacturers Association of California indicated that it did not oppose the portion of the application which seeks authority to transfer operating rights, but that it did oppose that portion of the application which seeks authority to increase rates and charges. None of the other interested parties opposed any part of the application or presented any evidence in connection therewith.

The record indicates that Turner has suspended operations because of a labor dispute. He has entered into a contract with Kleimer Van Lines to sell to Kleimer, subject to the approval of this Commission, the operating rights here under consideration for the sum of \$8,815. No other property is involved in the transaction.

Kleimer presently operates under the following permits issued by this Commission: City Carrier Permit No. 19-40303, Radial Highway Common Carrier Permit No. 19-46791, Highway Contract Carrier Permit No. 19-34051. In addition, Kleimer holds authority from the Interstate Commerce Commission to transport new furniture, store fixtures and related articles from points in California to various points throughout the United States.

Kleimer presently owns 36 pieces of operating equipment. Its operating revenues for the first eleven months of 1960 were \$428,326. It had a small earned surplus as of November 30, 1960.

The Commission finds that the proposed transfer of operating rights would not be adverse to the public interest and that the application should be granted. Kleimer is hereby placed on notice that the operative rights here involved, 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 thereof a full or partial monopoly over 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.

Kleimer has requested that if the Commission authorizes the transfer of the rights here involved, that all of Kleimer's operating rights be consolidated in an in lieu certificate of public convenience and necessity. The request will be granted.

Kleimer also seeks herein authority to publish for the operating rights here involved, a tariff with different rates and charges than those rates and charges presently contained in Turner's tariff.

Turner's present tariff provides that the rates therein are based on a released value not exceeding \$50.00 for 100 pounds or less and 50 cents per pound actual weight on shipments weighing more than 100 pounds. Kleimer proposes to establish rates not subject to a released valuation clause and assume full liability for loss or damage of any freight it handles. Kleimer also seeks authority to publish in its tariff a schedule of rates all of which are higher than those in the Commission's Minimum Rate Tariff No. 11A. Kleimer also proposes to reduce certain rates which Turner has published in his tariff, but the resulting rate after the reduction would still be higher than those required by Minimum Rate Tariff No. 11A.

To justify the requested increases in rates and charges, Kleimer introduced in evidence various exhibits which deal with the costs of operating a pickup van in Los Angeles. These costs bear no relationship between the proposed increases in rates which are rates from the carrier's terminal in Los Angeles to various destination

points in northern California.<sup>1/</sup> Nor is there any evidence in the record which would relate the proposed increases in rates to the transportation of uncrated new furniture without a release valuation clause limiting liability for loss or damage.

Applicant Kleimer Van Lines, Inc. has failed to produce in the record sufficient probative evidence to justify a finding by this Commission that the proposed rate increases are justified. The request for such increases will, therefore, be denied without prejudice.

It should also be noted that Decision No. 61894 in Petition No. 12 in Case No. 5603, decided on April 25, 1961, provides for the raising of minimum rates in Minimum Rate Tariff No. 11A. Pursuant to Decision No. 50114 in Case No. 4808 the Turner Tariff will need to be amended to reflect this raise in rates. The new minimum rates are, however, not as high as the lowest rates sought to be published by Kleimer.

As indicated, the proposed new rates sought by Kleimer contained certain rate reductions that provided rates which were lower than ones presently published in Turner's Tariff but higher than those in Minimum Rate Tariff No. 11A. However, these rates are so entwined with the rates for which approval has been above denied that they will not be acted upon herein. These reductions can be effectuated with reference to Turner's tariff by an appropriate filing in accordance with Public Utilities Code Section 455.

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<sup>1/</sup> The proposed tariff provides supplemental charges for pickup at a point of origin other than the carriers depot and for refused or rejected shipments with instruction to return to the shipper. The Los Angeles pickup van cost figures have some relation to these proposed supplemental charges, but these charges are only incidental to the rates in question.

O R D E R

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

IT IS ORDERED that:

1. Within one hundred and twenty days after the effective date of this order Loyd B. Turner may sell and transfer and Kleimer Van Lines, Inc., a corporation, may purchase and acquire the operative rights authorized by Decision No. 52881 in Application No. 36410, said transfer to be made pursuant to an agreement of the parties dated June 17, 1960, a copy of which is attached to the Application as Exhibit "C". Within thirty days after the consummation of the transfer herein authorized, Kleimer Van Lines, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

2. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the operations here involved to show that Loyd B. Turner has withdrawn or canceled and Kleimer Van Lines, Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

3. If the transfer of operating rights authorized in Paragraph 1 of this order and the transfer of operating rights authorized by Paragraph 1 of the order in Decision No. 61997

in Application No. 42442, are effectuated, then, in such event, a certificate of public convenience and necessity is hereby granted to Kleimer Van Lines, Inc., a California corporation, authorizing the transportation of property as a highway common carrier, as defined by Section 213 of the Public Utilities Code, for the commodities and between the points and over the routes set forth in Appendices A, B, C and D attached hereto and made a part hereof.

4. In providing a service pursuant to the certificate herein granted applicant shall comply with and observe the following service regulations:

- (a) Within one hundred twenty 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 granted, 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 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, and on not less than ten 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.

5. The certificate of public convenience and necessity granted in paragraph 3 of this order supersedes the certificates of public convenience and necessity acquired by Kleimer Van Lines, Inc., by Decision No. 61997, dated May 16, 1961, in Application No. 42442, and by paragraph 1 of this order, which certificates are hereby revoked, said revocation to become effective

concurrently with the effective date of the tariff filings required by paragraph 4(b) hereof.

6. In all other respects, Application No. 42543 is denied.

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

Dated at San Francisco, California, this 16<sup>th</sup>  
day of May, 1961.

Frederick B. Halbach  
President

E. L. Fox

Frederick B. Halbach  
Commissioners

(A) Kleimer Van Lines, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport new household, office and store furniture and fixtures, loose, not in boxes, crates or cartons, and uncrated new household, office and store appliances:

1. Between all points and places within Metropolitan Los Angeles Area as described in Appendix B attached hereto; and
2. Between all points and places in Los Angeles Territory as described in Appendix C attached hereto, on the one hand, and, on the other hand, all points and places on and within 10 miles laterally of the following highways:
  - a. U. S. Highway 101 - Alternate between the junctions of said highway with Sunset Boulevard in Los Angeles Territory and U. S. Highway 101 at El Rio, inclusive; and
  - b. U. S. Highway 101 between the intersection of said highway with State Highway 7 and San Luis Obispo, inclusive, including the off-route points of Fillmore, Santa Paula and Lompoc.

(B) Kleimer Van Lines, Inc., is hereby authorized to transport from and to the points and over the routes described in paragraph (C) the following commodities:

1. Uncrated new furniture and parts thereof;
2. Uncrated new lamp standards and electric lamps and shades combined, and parts thereof;
3. Uncrated household refrigerators and parts thereof;

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4. Uncrated radio receiving sets, radio receiving sets and talking machines combined, television sets, vision receiving sets, television or vision receiving sets and talking machines or radio sets combined, including necessary equipment of tubes and loud speakers and parts thereof;
5. Uncrated new household laundry machines, including drying machines, ironing machines, washing machines, with or without dish washing attachment and parts of any thereof;
6. Ironing boards, ironing tables, ironing machine covers and parts of any thereof; and
7. Uncrated new stoves or ranges, electric, gas, gasoline or oil.

(C) Kleimer Van Lines, Inc., is hereby authorized to transport the commodities described in paragraph (B) of this appendix from Los Angeles and all points and places within 35 miles of First and Main Streets in the City of Los Angeles to:

1. All points and places in San Francisco Territory as described in Appendix D attached hereto.
2. All points and places on and within 10 miles laterally of the following highways:
  - a. U. S. Highway 99 between Merced and Sacramento, inclusive;
  - b. U. S. Highway 50 between Stockton and San Francisco Territory as described in Appendix D, inclusive;

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- c. State Highway 120 between Manteca and the junction of said highway with U. S. Highway 50, inclusive;
- d. U. S. Highway 101 between San Francisco Territory as described in Appendix D and Santa Rosa, inclusive;
- e. U. S. Highway 40 between San Francisco Territory as described in Appendix D and Roseville, inclusive;
- f. State Highway 29 between Vallejo and Napa, inclusive;
- g. U. S. Highway 99-W between the junction of said highway with U. S. Highway 40 near Davis and Red Bluff, inclusive;
- h. U. S. Highway 99-E between Roseville and Red Bluff, inclusive; and
- i. U. S. Highway 99 between Red Bluff and Central Valley, inclusive.

For operating convenience only, applicant may use any highway convenient for the purpose of rendering the service provided in paragraphs (B) and (C) of this appendix including, but not limited to, the routes named and U. S. Highways 101 and 99 and all East, West, Alternate and By-pass routes thereof and State Highways (Sign Routes) Nos. 12, 37, 48, 33, 132 and 152.

Transportation of the commodities described in paragraph (B) of this appendix from all points and places described in subparagraphs 1 and 2 of paragraph (C) of this appendix to Los Angeles and all points and places within 35 miles of First and Main Streets in the City of Los Angeles may be performed for shipments of returned, damaged or rejected merchandise only.

End of Appendix A

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METROPOLITAN LOS ANGELES AREA includes that area embraced by the following boundary:

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean; thence along the westerly and northerly boundaries of said city to its point of first intersection with the southern boundary of the Angeles National Forest; thence along the southerly boundary of the Angeles National Forest to its point of intersection with the Los Angeles-San Bernardino County Line; thence southerly and westerly along the Los Angeles County Line to the Pacific Ocean; thence northerly and westerly along the coast line of the Pacific Ocean to the point of beginning.

Los Angeles Territory includes the area embraced by the following boundary:

Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northeasterly on 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 Lower Azusa Road; easterly on Lower Azusa Road to its intersection with the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to State Highway No. 26; westerly along State Highway No. 26 to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway 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.

San Francisco Territory includes the area embraced by the following boundary:

Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway No. 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway No. 101 to its intersection with the corporate boundary of the City of San Jose; southerly, easterly and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway No. 40 (San Pablo Avenue); northerly along U.S. Highway No. 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said water front and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.