

ORIGINALDecision No. 62105

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of WALTER E. FLOWER, doing business)
under the firm name and style of)
"FLOWER'S STOCKTON-LODI FAST FREIGHT",)
for an expansion and restatement of)
its certificate of public convenience)
and necessity authorizing highway)
common carrier operations.)

Application No. 42968

E. H. Griffiths, for applicant.

Boris H. Lakusta and Robert L. Harmon,
for Associated Freight Lines, California
Motor Express, Ltd., and California
Motor Transport Co. Ltd., Delta Lines,
Inc., Di Salvo Trucking Co., Fortier
Transportation Co., Interlines Motor
Express, Merchants Express of California,
Oregon-Nevada-California Fast Freight,
Southern California Freight Lines, Pacific
Motor Trucking Co., Shippers Express,
Sterling Freight Lines, Valley Express Co.,
Valley Motor Lines, Inc., and Willig Freight
Lines, protestants.

O P I N I O N

This application was heard before Examiner Rowe at Stockton on March 7, 1961, and May 1, 1961, on which latter date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

Applicant is a highway common carrier¹ operating between Stockton, on the one hand, and Lodi and Victor, on the other hand, with no authority to serve intermediate points. Due to the fact that his certificate of public convenience and necessity covers only a limited number of commodities much of the service of the nature for which authority is sought herein has been rendered pursuant to his unlimited permits. Applicant, therefore, requests authorization to conduct operations as a highway common carrier for the transportation

¹ Decision No. 54166, dated December 4, 1956, in Application No. 36353.

of general commodities between points on and within five miles laterally of U. S. Highway 99 between Stockton and Galt, inclusive.

Applicant's Evidence

a. Applicant has total assets of \$160,092.86 and with no liabilities except current minor accounts payable. His capital investment in this business is approximately \$2,000, consisting principally of a Ford truck of 1½-ton capacity. His gross revenue is about \$5,000 annually. He drives the truck himself and nets approximately \$1,500 without any deduction for salary.

b. Four public witnesses representing substantial shippers in Lodi or Stockton testified that the proposed expanded service is needed. They stressed the need for same day service and in addition the need for a more complete coverage of the articles they regularly ship.

Protestants' Evidence

Protestant Merchants Express of California by its operating witness described generally its extensive operations but conceded that freight offered to it in Stockton would move by way of Sacramento to Galt and would be delivered the following day. Delta Lines also presented such testimony. This was quite similar in character except that the movement from Stockton to Galt would be direct although also next day delivery.

Findings and Conclusions

The Commission finds that the proposed extension of territorial and commodity coverage proposed by applicant is required by public convenience and necessity. It is further found that protestants will not render the expedited service offered by this applicant to his customers. It is also found that applicant possesses the experience, equipment and financial resources to institute and maintain the expanded service as proposed.

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.

O R D E R

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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Walter E. Flower authorizing the transportation of property as a highway common carrier as defined by Section 213 of the Public Utilities Code between the points and over the routes as set forth in Appendix A attached hereto and made a part hereof.

2. 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. 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 to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificate of public convenience and necessity granted by Decision No. 54166, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 6th day of June, 1961.

[Handwritten signature]

President
[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

Frederick B. Holloff

Commissioners

Walter E. Flower, 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 on and within five miles laterally of U.S. Highway 99 between Stockton and Galt, inclusive.

Applicant shall not transport any shipments of:

1. 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.
2. 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 and bus chassis.
3. 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.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

End of Appendix A

Issued by California Public Utilities Commission.

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