

ORIGINALDecision No. 63024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 AMERICAN TRANSFER CO., a corporation,
 for a certificate of public conven-
 ience and necessity to operate as a
 highway common carrier.

Application No. 43207

Handler, Baker & Mastoris, by Marvin Handler and
Daniel Baker, for applicant.
 Graham James & Rolph, by Boris H. Lakusta, for
 Associated Freight Lines, California Cartage
 Company, California Motor Express, Ltd., and
 California Motor Transport Co., Ltd., Delta
 Lines, Inc., Di Salvo Trucking Company,
 Interlines Motor Express, Merchants Express of
 California, Southern California Freight Lines,
 Pacific Motor Trucking Company, Shippers
 Express, Sterling Transit Co., Inc., Valley
 Express Co. and Valley Motor Lines, Inc.,
 Willig Freight Lines, Blankenship Motors,
 protestants.

O P I N I O N

This application was heard before Examiner Thomas E. Daly at San Francisco and Fresno and was submitted on September 29, 1961, upon receipt of concurrent briefs filed November 1, 1961. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are shown in the appearances above.

Applicant's Case

Applicant is presently engaged as a highway common carrier and a petroleum irregular route carrier for the transportation of petroleum products in bulk in tank trucks between all points and places in the State of California. Applicant also operates as a radial highway common carrier and a highway contract carrier for the

transportation of general commodities between various points within the State. By this application applicant requests authorization to conduct operations as a highway common carrier for the transportation of general commodities between all points on the following routes:

1. U.S. Highway 40 between San Francisco and Sacramento, inclusive;
2. U.S. Highway 50 between San Francisco and Sacramento, inclusive;
3. U.S. Highway 99 between Sacramento and Los Angeles, inclusive;
4. State Highway 24 between Oakland and Sacramento, inclusive;
5. State Highway 4 between U.S. Highway 40, near Pinole and Stockton, inclusive;
6. U.S. Highway 101 between San Jose and Gilroy, inclusive;
7. State Highway 152 between Gilroy and U.S. Highway 99, near Chowchilla, inclusive;
8. State Highway 120 between U.S. Highway 50, near Lathrop, and Manteca, inclusive;
9. State Highway 33 between U.S. Highway 50, near Tracy, and Maricopa, inclusive;
10. State Highway 132 between Vernalis and Modesto, inclusive;
11. State Highway 180 between Mendota and Fresno, inclusive;
12. State Highway 198 between State Highway 33, near Coalinga, and Visalia, inclusive;
13. U.S. Highway 466 between State Highway 33 near Lost Hills, and Famoso, inclusive;
14. State Highway 166 between Maricopa and U.S. Highway 99, near Wheeler Ridge, inclusive;
15. U.S. Highway 101 between Los Angeles and San Diego, inclusive;
16. U.S. Highway 395 between San Bernardino and San Diego, inclusive;
17. Between all points located within 25 miles of the points and places included in subparagraphs 1 through 16.

Service is proposed over any and all available routes. No service is proposed between points within the San Francisco Territory; the Los Angeles Basin Territory; Sonoma County; to or from Newhall, Saugus and Castaic; to or from points on U.S. Highway 6 between Newhall and Mojave; to or from points on U.S. Highway 406 between Bakersfield and Mojave; nor to or from points on U.S. Highway 66 between San Bernardino and Victorville.

Applicant proposes an on-call service, Monday through Friday with Saturday service in Fresno County. The proposed rates will be comparable to those prescribed by the Commission in Minimum Rate Tariff No. 2.

Applicant owns and operates approximately 250 units of equipment including trailers, vans, flatbeds and tank trailers. The Fresno terminal, which applicant owns and operates 24 hours a day, 7 days a week, consists of five acres of land upon which are located an office, shop and dock. Applicant has approximately 80 employees at its Fresno terminal, including drivers. Leased terminals, consisting of dock and office space are maintained at Los Angeles, Stockton and San Leandro. As of December 31, 1960, applicant indicated a net surplus in the amount of \$182,077.96 and realized a net profit in the amount of \$94,978.59 for the year 1960.

American Transfer Co., was formed in 1922 by A. C. Prickett. Upon his death in 1954 the operation of the business was taken over by his sons. In 1949 applicant was certificated to transport petroleum and petroleum products. In addition to its tank truck operation, applicant has conducted service as a permitted carrier for the transportation of general commodities. It is alleged that applicant's permitted operations have grown to the extent that applicant's president is reluctant to fully meet the requirements of the public

because he is uncertain as to the exact limits of his permitted authority. It is further alleged that certification is essential to allow applicant to experience a continued orderly growth, to protect its investment in facilities necessary to render the service required of it and to provide it with the means and ability to meet the public's future transportation requirements.

Exhibit No. 3 was introduced by applicant for the purpose of indicating the nature of its present permitted operations. The exhibit contained information relative to the shipments transported by applicant for the period commencing April 1, 1961 to June 30, 1961, inclusive. Shipments moved to numerous points in the proposed area and included commodities such as roofing materials, pipe, case dry milk, steel, raisins, mayonnaise, machinery, wine, cartons, bags, rugs, empty pallets, case mazola, case asphalt, fibre, tile, wire, poles, cement, brick and glass. The shipments ranged in weight from 500 pounds to 360,000 pounds, the latter requiring multi truckload movements. The majority of the shipments were truckload, although many were composed of shipments with split deliveries.

A summary of the exhibit is as follows:

<u>Points Served</u>	<u>No. Shipments</u>	<u>No. Movements</u>
Pittsburg - Pinedale	15	51
Decoto - Fresno	20	53
Pittsburg - Fresno	11	16
San Francisco - Fresno	11	15
San Francisco - Stockton	10	30
Clovis - San Francisco	5	8
Pittsburg - Los Angeles	5	8
Stockton - Fresno	5	6
Los Angeles - Fresno	5	5
Chowchilla - Stockton	4	7
Locans - San Francisco	7	7
San Leandro - Anaheim	3	6
Anaheim - Fresno	4	6
Fresno - Oakland	2	7
San Francisco - Modesto	4	4

<u>Points Served</u>	<u>No. Shipments</u>	<u>No. Movements</u>
Locans - San Jose	3	4
Fresno - Salinas	3	3
Fresno - Martinez	3	3
Locans - Richmond	3	5
Locans - San Leandro	3	3
Locans - Stockton	3	3
San Francisco - Los Angeles	2	3
San Francisco - Porterville	3	3
Pittsburg - Bakersfield	2	3
Decoto - Calwa	1	6
San Francisco - Atwater	1	5
Tulare - Stockton	2	2
Pittsburg - Los Banos	2	2
Tulare - Stockton	2	2
Pittsburg - Visalia	2	2
Clovis - Sacramento	2	2
San Leandro - Helm	2	2
Tipton - Stockton	2	2
Locans - Redwood City	2	2
Fresno - Alameda	2	2
Salinas - Fresno	2	2
Anaheim - Fresno	2	2
Locans - Riverbank	1	5
San Francisco - Tulare	1	2
Clovis - Vallejo	1	2
Locans - San Lorenzo	1	2
San Francisco - Hanford	1	2
Clovis - Newark	1	2
Pittsburg - Madera	1	2
San Francisco - Merced	1	2
Clovis - Gilroy	1	2
Stockton - Del Rey	1	2
San Francisco - Madera	1	2
Locans - Mt. View	1	3
Pittsburg - Tulare	1	1
Tipton - Stockton	1	1
Fresno - Hollister	1	1
Fresno - St. Helena	1	1
Los Angeles - Helm	1	1
Reseda - Fresno	1	1
Los Angeles - Sanger	1	1
Clovis - Vallejo	1	1
Selma - San Leandro	1	1
Locans - Modesto	1	1
Clovis - San Rafael	1	1
Pittsburg - Santa Maria	1	1
San Francisco - Atwater	1	1
Fresno - San Jose	1	1
Modesto - Madera	1	1
San Francisco - Hanford	1	1
San Francisco - Oroquieta	1	1
San Francisco - Orange Cove	1	1
Clovis - Colma	1	1
Bakersfield - Madera	1	1

<u>Points Served</u>	<u>No. Shipments</u>	<u>No. Movements</u>
San Francisco - Farmersville	1	1
Fontana - Fresno	1	1
Salinas - Madera	1	1
Antioch - Helm	1	1
So. San Francisco - Chowchilla	1	1
Stockton - Madera	1	1
Fresno - So. San Francisco	1	1
Stockton - Visalia	1	1
Fresno - Van Nuys	1	1
Fresno - Sacramento	1	1
Clovis - Sacramento	1	1
San Jose - Los Banos	1	1
Fresno - Petaluma	1	1
San Francisco - Kerman	1	1
Bakersfield - Fresno	1	1
Fresno - San Rafael	1	1
Clovis - So. San Francisco	1	1
Clovis - San Jose	1	1
Locans - Alameda	1	1
Clovis - Sonoma	1	1
Fresno - Burlingame	1	1
Clovis - Petaluma	1	1
Locans - Sunnyvale	1	1
Fresno - So. San Francisco	1	1
Locans - Colma	1	1
San Francisco - Porterville	1	1
Clovis - Vallejo	1	1
Los Angeles - Madera	1	1
Madera - Wheeler Ridge	1	1
Fresno - Santa Rosa	1	1
Monolith - Madera	1	1
Locans - Oakland	1	1
Sanger - Stockton	1	1
Fowler - Los Angeles	1	1
Antioch - Clovis	1	1
San Francisco - Lodi	1	1
Locans - Modesto	1	1
Madera - Seaside	1	1
Salinas - Madera	1	1
Clovis - Montebello	1	1
Fresno - Eureka	1	1
Fresno - Wasco	1	1
Bakersfield - Porterville	1	1
Sunnyvale - Bakersfield	1	1
Fresno - Napa	1	1
Fresno - Cucamonga	1	1
Selma - Oakland	1	1
Clovis - Los Angeles	1	1
San Leandro - National City	1	1

Public Witness Testimony

Thirteen public witnesses testified on behalf of applicant. The following is a resume of their testimony:

1. John E. Myers

The witness is Divisional Traffic Manager of Durkee Famous Foods Division of the Glidden Company in Berkeley, California.

This company has used applicant for 16 years under its certificate for the transportation of bulk oil shipments moving in tank equipment between Berkeley, Fresno and Los Angeles. It has not used applicant on dry freight except for a time during a recent strike. It uses Merchants, Delta, CME, Hills Transportation, a contract carrier and two proprietary trucks on shipments of dry freight to such proposed points as Sacramento, Stockton, San Rafael, Modesto, Turlock, Merced, Fresno, Hanford, Visalia, Porterville, Delano, Bakersfield, Coalinga, Avenal, Taft and the Los Angeles Territory. The company requires mechanically refrigerated equipment 25% of the time. It would not discontinue use of existing carriers, but it would be a convenience to have an additional carrier with mechanically refrigerated equipment.

2. Lionel B. Mallet

Mr. Mallet is Traffic Manager and in charge of stock control for the John Deere Company in San Francisco, which company handles farm equipment of all types, including tractors and machinery for tractors as well as light industrial machines. John Deere maintains an emergency warehouse stock in San Francisco valued at approximately one million dollars. During the past four years business has increased by 50% due to entry into the light industrial equipment field. John Deere ships on a daily basis in truckload and LTL quantities to Sacramento, Stockton, Visalia, Modesto, Merced,

Fresno, Hanford and Bakersfield and ships at least 2 or 3 times a week to such points as Napa, Dixon, Woodland, Walnut Grove, Roseville, Lodi, Tracy, Brentwood, Los Banos, Berenda, Tulare, Porterville, Delano, Wasco and Los Angeles. John Deere presently uses C-Line, Interlines, Fortier, Valley, Merchants, Sterling, CME, Shippers Express, Western Truck and Watson Brothers. It has no complaint with the delivery services of said carriers, but experiences difficulties on pickups, particularly when van equipment is sent to pick up heavy machinery requiring a low bed. Many shipments are emergency in nature and this results in the loss of one day in transit. Approximately 10% of this company's traffic requires flatbed equipment. John Deere has used applicant for the past two years on truckload shipments to Fresno, and for it applicant's proposed wide territorial coverage, with flatbed equipment and Saturday service, would be a convenience. John Deere would not discontinue use of other carriers.

3. Paul H. Keane

Mr. Keane is the President of Keane Asbestos Company and Valley Home Insulation Company in Fresno.

Keane Asbestos

The company handles asbestos, composition shingles, felt and asphalt. It receives an average of three truckload shipments a month from such points as Pittsburg, Richmond, San Leandro and Watsonville. Shipments are received at witness's warehouse in Fresno. Occasionally the company has split shipments moving to job sites in the Valley. It requires open equipment. The company has used applicant on these shipments since 1950.

Valley Home Insulation Co.

It manufactures sun control products, which include screens, awnings, patio covers, weather stripping materials and thermal

insulation. Business commenced in 1935, but in the past year has materially expanded. The witness expects a vast increase in business in the near future. Shipments are made to Valley points entirely and range in weight from 3 lbs. to 300 lbs. In the past three months the company has made about 3 shipments to Sacramento, 12 each to Modesto and Coalinga and a varying number of shipments to Valley points including Porterville, Selma and Madera. The company presently uses Valley and CME and their services are satisfactory. It has never used applicant on these shipments, but would use applicant's proposed service because of the Saturday service and the convenience of having a carrier domiciled in Fresno.

4. Peter Lempesis

Witness is the Purchasing Agent for the Melville E. Willson Company in Fresno, which is an agricultural chemical company dealing in fertilizers, insecticides, fumigants and fungicides.

The company operates a formulating plant and warehouse in Madera with installations located at Del Rey, Five Points, Firebaugh and Madera. It has used applicant on bulk shipments moving in tank equipment under its certificated authority, but has never used applicant on shipments of dry freight.

During the growing season from the end of March to September the company has occasion to receive both truckload and LTL shipments of dry fertilizer and insecticides. Truckload shipments of dry fertilizer originate at the plants of the Shell Chemical Company in the Bay Area and Ventura. It also receives truckload shipments of dry fertilizer from Lathrop. The company averages approximately six truckload shipments a day during the season. It uses Ganduglia Trucking, a permitted carrier, and would not divert to applicant because Ganduglia is a local carrier doing a good job.

The company also receives LTL shipments of insecticide and equipment during the season from such points as Richmond, Newark, San Leandro, Walnut Creek and the Los Angeles Area. It uses Valley and CME, whose services are satisfactory. The company would probably use applicant on some of the LTL shipments because its terminal is open 24 hours a day, 7 days a week. At present it has to wait until 8 a.m. when Valley's terminal opens to pick up insecticides. If the company could pick up at 1 a.m. from applicant's terminal, the insecticide could be taken to the Madera plant, where it would be formulated and then delivered to the grower for spraying by 7 a.m. when there is no wind.

5. Leonard C. Northan

Mr. Northan is the Shipping Superintendent for the Alta Vineyards Company, Fresno, California, which is engaged in the producing, bottling and shipping of wine.

The company has used applicant since 1959 on wine shipments of 10,000 pounds or more, many of which consist of split deliveries. On a weekly basis the shipments average three to San Francisco and one each to such points as So. San Francisco, San Jose and Hayward. The company averages one shipment every two weeks to each of the following points: Colma, Redwood City, Vallejo, San Rafael, Pittsburg, Long Beach, Los Angeles and Ontario; and averages one shipment a month to Berkeley and one a month to Newark.

Occasionally applicant transports empty glass shipments in truckload lots from Antioch for Alta.

The latter frequently has shipments of less than 10,000 pounds to Sacramento, San Francisco Bay Area and Los Angeles Area. They range in size from 10 cases to 100 cases. CME is now used exclusively for these shipments; however, Alta may give similar

shipments to applicant if it is certificated, because of the convenience of sending all shipments by one carrier who is located in Fresno.

6. Ronald E. O'Conner

This witness is Office Manager for Valley Wholesale Building Materials Company of Madera, California, which handles a wide variety of building materials. It maintains four warehouses in Madera.

This company has used applicant for six years on inbound truckload shipments from Pittsburg, San Leandro and Los Angeles. Also, it uses two other permitted carriers, but applicant is used primarily. Valley Wholesale requires and receives service on Saturdays and Sundays, by flatbed equipment with fork lift which it receives from applicant.

Valley Wholesale averages 3 LTL, inbound shipments a month from Fremont and 4 a month from the City of Industry in Los Angeles. It has used Santa Fe, S.P., CME and Valley on the LTL shipments and because of late delivery service has discontinued the use of all but Valley Express. Valley Wholesale requires an 3 a.m. delivery service. Valley Express' terminal is just across the street, but, even so, on occasions it makes late morning deliveries.

This shipper has never used applicant on shipments of less than 10,000 pounds because he always considered it to be a truckload carrier and did not think applicant had the facilities to handle LTL shipments.

The company has outbound shipments to Valley points from Stockton on the north, to Tulare on the south. It uses its own equipment for these shipments. However, occasionally it has some

small outbound shipment for which Valley Express is used. Service of the latter is satisfactory for such outbound shipments.

7. Edward H. Martin

This witness is a partner in the Fresno Roofing and Lumber Company of Fresno, California. They are roofing contractors who also operate a retail hardware, lumber and building material business.

They have used applicant for seven years on truckload shipments originating at San Francisco, Pittsburg, Richmond, Sacramento and Los Angeles. Said truckload shipments average about 7 a month. Approximately half of them are destined to Fresno and the other half are destined to job sites located at such points as Hanford, Bakersfield, Lemoore, Coalinga, Avenal, Merced, Modesto, Stockton, Sacramento, Los Banos, Dos Palos, Firebaugh and Mendota.

They have between 6 to 10 LTL shipments a month originating in San Francisco and Los Angeles, destined to Fresno. During the past year they have had approximately 6 LTL shipments to job sites in Hanford, 2 to a job site in Coalinga, and 3 to a job site in Modesto. Although they pay the freight on such LTL shipments, they do not designate the carrier. They average 3 or 4 LTL shipments a year out of Fresno and have never considered applicant as anything but a truckload carrier so did not request applicant to transport any LTL shipments. Applicant never solicited such traffic.

8. Milton Harding Brown

Mr. Brown is Sales Manager for Valley Foundry and Machine Works, Inc., of Fresno, California. This company does job shop manufacturing, basically of pumps, machines, tanks and agitators for wineries. It receives shipments of industrial hose, steel pipe, valves, fittings and paint on a daily basis from one or more of

the following points: San Francisco, San Carlos, Hayward, Oakland, Richmond, Emeryville, Long Beach, Santa Ana, Fontana and Fullerton. The only inbound truckload shipments are from Fontana where the carrier used is Paxton. All of the other inbound shipments are LTL and other carriers are used because the shipper usually designates the carrier. Applicant has been used on only three inbound shipments and they originated near Berkeley.

The company ships finished products of machinery and tanks to wineries located at the following points: Bakersfield, Delano, Porterville, Coalinga, Corona, Lemoore, Hanford, Visalia, Tulare, Lindsay, Strathmore, Ducor, Cutler, Dinuba, Reedley, Kingsburg, Selma, Fowler, Sanger, Clovis, Mendota, Tranquility, San Joaquin, Helm, Madera, Merced, Gustine, Los Banos, Dos Palos, Mariposa and Sacramento.

For the past year and a half it has used applicant on all outbound shipments weighing in excess of 2,000 pounds. On shipments of less than 2,000 pounds it has used CME and Valley. This company requires and receives overnight service; flatbed, lowbed and van equipment as well as Saturday service. If the requested certificate is granted, the company would use applicant where possible on all shipments including those of less than 2,000 pounds. It is a convenience to deal with a carrier that provides a 24-hour terminal service and is locally domiciled.

9. Donn W. Wilson

This witness is Supervisor of truck traffic for Fibreboard Paper Products Corporation in San Francisco, California.

Fibreboard manufactures pulpboard and paperboard and also handles building materials. The company has many plants throughout the State, but for purposes of this hearing we are concerned only

with the shipping needs and requirements of the Stockton plant. The Stockton plant manufactures pulpboard and fibreboard containers for use by canneries, packing houses and food processors. This plant's total tonnage for 1960 amounted to 112,000 tons. Its freight costs for 1960 amounted to \$1,600,000.

It ships in truckload and LTL quantities. The LTL shipments are usually emergency and require same-day service. Its operations are seasonal from May to October.

This plant has used applicant for 20 years on all shipments from 2,000 pounds to truckload. It uses applicant to all Valley points from Madera to Visalia including such points as Del Rey, Sanger, Fresno, Dinuba, Visalia, Kingsburg, Madera and Selma. Also it uses Miles to the same points as a supplemental service. For the first 3 months of 1961 applicant transported 1,400,000 pounds of freight for the Fibreboard plant.

During the heavy season shipments are daily to one or more of the Valley points and during the balance of the year average 1 or 2 shipments a week.

This shipper requires and receives service 7 days a week, 24 hours a day during busy months. Also it needs flat rack equipment because of palletized loading. Applicant's Stockton terminal is across the street from the plant, which is a convenience. It requires and receives split delivery service.

Applicant also performs back haul on empty pallets.

10. Walter G. Hess

Mr. Hess is the Traffic Manager for Vendolator Manufacturing Company, of Fresno, California, which manufactures a complete line of soft drink machines.

Vendolator operates its plant at Pinedale, which produces 200 vending machines a day. It has used applicant for 12 years on all of its inbound, truckload shipments of steel from Pittsburg. Also it uses applicant on steel shipments from San Francisco, but they are interstate in nature. The average tonnage is 700,000 pounds of steel a month of which 80% would be intrastate from Pittsburg. It requires flat rack equipment and occasional Saturday service.

This company also uses Valley on inbound shipments of paint from the Bay Area and CME on inbound shipments of plastic from the Los Angeles Area. It would not divert such inbound shipments to applicant if the latter were certificated.

Vendolator ships vending machines outbound to the San Francisco Area, the Los Angeles Area, San Diego and to all points in which a franchised vendor is located. Presently it uses Valley, CME and Delta on the outbound shipments. If applicant is certificated, Vendolator would apportion the outbound shipments between said carriers and applicant. It used applicant on the outbound shipments during a strike period. The service was very good. This shipper believes it is a convenience to deal with a locally domiciled carrier, because it affords the company better control over its shipments. It needs van equipment on outbound shipments, which applicant afforded during the strike period.

11. Sharlene E. Martin

This witness is the Traffic Manager for Bonner Packing Company, of Fresno, California, which packs dried raisins and figs. It ships to bakers, wholesale and retail grocers located in Stockton, Lodi, Sacramento and the San Francisco Bay Area. The peak season runs from September through May. It has used applicant for 15 years.

It averages 3 LTL shipments a week to Sacramento during the peak season and 1 a week during the summer months. Valley is used exclusively on these shipments. It has never tried applicant to Sacramento.

Bonner ships daily to Stockton during the peak season and 2 or 3 times a week during the off season. It uses applicant exclusively on these shipments which are primarily truckload with occasional LTL movements.

This company has approximately 1 shipment a week to Lodi during the season and 1 every two weeks during the summer. These are all LTL shipments. They are handled by applicant, Valley and occasionally by PMT.

It ships daily to one or more points in the San Francisco Bay Area during the season and 2 or 3 times a week during the off season. These are usually truckload shipments with split deliveries. There are occasional LTL shipments. It uses applicant and Valley.

If applicant were certificated, Bonner would increase its use on LTL shipments. Occasionally it requires a Saturday service.

The shipper uses a specified permitted carrier to Los Angeles at the request of a broker. It might possibly use applicant on such shipments if certificated.

It uses Valley on San Diego shipments and is satisfied with its service.

12. John T. Melvin, Jr.

Mr. Melvin is the Traffic Manager of Malaga Oil Products located at Lindsay, and for Strathmore Vegetable Oil Company located at Strathmore. Both companies are subsidiaries of E. F. Drew and Company.

Malaga deals in bulk edible oils. The Strathmore plant manufactures detergents and power chemicals.

The shipper has used applicant on 90% of bulk shipments moving in tank trucks under applicant's certificated authority.

It ships refined coconut oil in pails and drums. These shipments move to the Los Angeles Area on the average of one shipment a week and to the San Francisco Area on the average of one shipment every 3 or 4 weeks. They are small shipments with Valley providing a satisfactory transportation service.

From Strathmore it ships power chemicals to company warehouses in San Francisco, Long Beach and San Pedro. These also are LTL shipments with Valley and occasionally Fortier providing satisfactory services.

It makes LTL shipments of detergents to a broker in Hanford and on occasions ships directly to customers located throughout the San Joaquin Valley.

Shipments from both plants range from 100 pounds to 15,000 pounds with the average shipment being 7,000 pounds. The average tonnage is approximately 200,000 pounds a month outbound. It requires an overnight service with occasional Saturday service.

This company suggested that applicant acquire a certificate so that it could transport some of its LTL shipments. If applicant is certificated, this shipper would split the traffic with applicant and Valley. It might use one to the northern area and one to the southern area.

13. Wallace P. Gunn

This witness is the District Traffic Manager for the Best Foods Division of Corn Products Company, at San Francisco,

California, which manufactures various table sauces, refined oils and oleomargarine.

It has plants in San Francisco and Alameda. It has used applicant for over 20 years on truckload shipments with split deliveries to points between Stockton and Bakersfield including Stockton, Modesto, Turlock, Merced, Madera, Fresno, Clovis, Reedley, Sanger, Selma, Hanford, Tulare, Porterville, Delano and Bakersfield.

This company uses Kings County Truck Line under contract to San Diego and would not discontinue such usage. Presently it uses contract and certificated carriers to Los Angeles and would continue to do so.

It is interested only in continuing applicant's service to the Valley points. Applicant is currently transporting an average of 100,000 pounds per week for this shipper.

Protestants' Case

The following carriers made an affirmative showing in support of their protests: Valley Express Co., Valley Motor Lines, Inc., Delta Lines, Inc., Pacific Motor Trucking Company, California Motor Express, Ltd., California Motor Transport Co., Ltd., Oregon-Nevada-California Fast Freight, Inc., Southern California Freight Lines, Merchants Express of California, Blankenship Motors, Trans-Bay Motor Express, Willig Freight Lines, and Di Salvo Trucking Company. They introduced both oral and documentary evidence reflecting their present operations. Each is authorized to operate in some part if not all of the proposed area. These protestants own and operate extensive fleets of equipment. They maintain many large and modern terminals, which are equipped with the latest means of communication for the purpose of dispatching equipment and tracing shipments.

Each assertedly offers and provides a modern and complete highway common carrier service. They attempt to make their service known to the shipping public by means of solicitation and by advertising in magazines and trade journals. They contend that they are not presently utilizing their equipment to capacity and that the certification of applicant would result in a diversion of traffic, which would decrease their load factors, increase their unit costs of operations, ultimately lead to an increase in their operating ratios and thus necessitate an increase in rates.

Protestants introduced the testimony of the following public witnesses: Walter A. Kiel, Reliance Electric & Engineering Company, Burlingame; Michael Joseph Cousins, Jr., Robinson Laboratory, San Francisco; Frank S. Wagstaff, Sloss & Brittain, San Francisco; Wayne Ellersick, Cooper Tire and Rubber Company, Brisbane; and Ernst C. Bolte, Vi-John Laboratories, Inc., Oakland. Each witness testified that his company has occasion to ship to the proposed area; that his company uses one or more of the existing carriers; that the existing services satisfactorily meet the business needs and requirements of his company; and that their respective companies oppose the certification of applicant because it might lead to diversion of traffic from the existing highway common carriers and to an increase in rates.

Findings and Conclusions

It is apparent from the evidence that there is a basic difference between the operations conducted by applicant and those conducted by protestants. Where applicant's operations have been primarily the transportation of truckload shipments, protestants are essentially engaged in the transportation of less-than-truckload shipments. Because of this difference each operates in a different

manner. The truckload carrier has less need for pickup and delivery equipment or elaborate terminal facilities, whereas the less-than-truckload carrier could not operate without such equipment and facilities. Each fills a public need in the field of transportation. Although the vast majority of shippers ship in less-than-truckload lots there are certain shippers who ship almost entirely in truckload quantities, with only incidental small shipments. Because of the nature of their business or the business of their customers, truckload shippers may require specialized equipment with pickups and deliveries made at unusual times or frequencies. Existing certificated carriers are not always able to accommodate these shippers, hence often such shippers are forced to rely upon permitted carriers. Frequency of operation may lead to legal difficulties, particularly in the case of operations performed pursuant to a radial highway common carrier permit.

A radial highway common carrier is an anomalous statutory creature. Its legal status becomes more and more questionable as the public demand for its service increases. Unfortunately it is a condition over which the carrier has little control. By law it cannot operate between fixed points or over regular routes, but it is a common carrier, with the right to solicit and advertise, and it is expected to provide requested service. (Calif. Civil Code, Section 2169. "A common carrier must, if able to do so, accept and carry whatever is offered to him, at a reasonable time and place, of a kind that he undertakes or is accustomed to carry.") The public demand for a radial highway common carrier's service thereby determines the frequency of its operation and, by the same token also determines whether the carrier requires a certificate. When the public demand reaches the point that the radial carrier's service between points

becomes fixed or of a constant nature it is then incumbent upon the carrier to seek certification in conformity with such demand. In the instant proceeding certification to the extent hereinafter authorized will enable applicant to continue the operations that it and its predecessor have conducted for almost forty years consonant with public demand and legal propriety.

There appears to be little or no basis for protestants' argument that the certification of applicant would lead to a material diversion of traffic from the existing certificated carriers. From a practical point of view it would be economically impossible for the average permitted carrier to incur the additional overhead costs in the form of equipment, terminals and employees to become competitive with the large existing certificated carriers in the field of less-than-truckload transportation. The argument is even less plausible when one considers that applicant is but one of many thousands of permitted carriers who are presently serving the proposed area and will continue to so operate regardless of whether this application is granted or denied. The only less-than-truckload shipments transported by applicant are split deliveries and "fill-ins", which for the most part constitute an accommodation to applicant's customers by providing them with a complete service. From the public witness testimony there is nothing in this record to indicate that the public's use of applicant would materially change if it were certificated. On the contrary, the public witness testimony shows that applicant has been used as a truckload carrier. There was little evidence that these witnesses intend to discontinue the use of the existing common carriers for their less-than-truckload shipments.

A review of applicant's operations as evidenced by Exhibit No. 3 and the public witness testimony indicate a frequent demand for applicant's service between the following points:

- (1) Fresno, on the one hand, and San Francisco, Decoto and Pittsburg, on the other hand;
- (2) San Francisco, on the one hand, and Stockton, on the other hand;
- (3) Pittsburg, on the one hand, and Pinedale, on the other hand.

Based upon the evidence of record it appears that the public demand for applicant's service to other points in the proposed area is of such a sporadic nature that applicant may lawfully perform such service pursuant to its permitted authority.

After consideration, therefore, the Commission finds and concludes that public convenience and necessity require applicant's service between the points heretofore described. In all other respects the application will be denied.

American Transfer Co. 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

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to American Transfer Co., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points as set forth in Appendix A attached hereto and hereby 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-B. 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-B, 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. In all other respects Application No. 43207 is hereby denied.

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

Dated at San Francisco, California, this 9th day of JANUARY, 1967.

[Signature]
President

[Signature]

[Signature]

Commissioners

American Transfer Co., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, subject to the exceptions hereinbelow set forth between:

- (1) Fresno, on the one hand, and San Francisco, Pittsburg and Decoto, on the other hand.
- (2) San Francisco, on the one hand, and Stockton, on the other hand.
- (3) Pittsburg, on the one hand, and Pinedale, on the other hand.

The operating authorities hereinabove set forth do not include the right to render service to, from or between intermediate points.

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. 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.

Issued by California Public Utilities Commission.

Decision No. 63024, Application No. 43207.

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APPENDIX A

AMERICAN TRANSFER CO.
(a corporation)

Original Page 2

5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.

End of Appendix A

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Decision No. 63024, Application No. 43207.