

ORIGINAL

Decision No. 63397

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TRUCKING UNLIMITED, a corporation,)
for removal of restrictions on its)
certificate of public convenience)
and necessity, to extend service as)
a highway common carrier, and for)
issuance of an in-lieu certificate.)

Application No. 43163
(Filed February 17, 1961)

Bertram S. Silver and William L. Cole, by
William L. Cole, for applicant.
Graham James & Rolph, by Boris Lakusta and
Leo J. Vander Lans, for protestants.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf in Los Angeles on May 23 and 24, and on July 25, 1961, in San Francisco on July 26, 1961, and submitted on July 26, 1961, subject to the filing of concurrent briefs which are now filed. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are: California Motor Express, Ltd., Delta Lines, Inc., Fortier Transportation Company, Interlines Motor Express, Merchants Express of California, Oregon-Nevada-California Fast Freight and Southern California Freight Lines, Pacific Motor Trucking Company, Valley Motor Lines, Inc., Willig Freight Lines, California Cartage Company, Shippers Express, and Sterling Transit Company, Inc.

Applicant is a highway common carrier transporting specific commodities between Los Angeles, San Francisco, Sacramento and various other California points, pursuant to Decision No. 54688, dated March 19, 1957, transferred to applicant under Decision No. 55113, dated June 11, 1957, and Radial Permit No. 19-18009, Highway Contract Permit No. 19-18010, and City Permit No. 19-38528, said permits having been issued March 12, 1957.

Applicant requests authorization to extend such highway common carrier operations so as to transport general commodities with the usual exceptions between all points and places within 25 miles of certain routes between Sacramento, San Francisco, and Los Angeles, and for the issuance of a certificate in lieu of the applicant's present authority under the same rules and regulations and under its tariffs which are now effective.

Applicant's Evidence

Applicant presently owns and operates eighteen power units and nineteen trailers and has total assets of \$126,386.62. The age of applicant's equipment is as follows: ten units are 1950 or older, one diesel is a 1956 model, one a 1959 dolly, and all other units are 1951 to 1955. It has leased terminals at Los Angeles, Kingsburg and Sacramento and proposes new terminal service at San Leandro. Five of applicant's shippers supported the application with the testimony of six witnesses, all at Los Angeles. These shippers testified to the excellent service given by the applicant and stated that they would continue to use the service. These shippers were dealing in the following products: metal, paint, roofing, adhesives, roof coatings, linoleum, acoustical metal tile, insulating materials,

gypsum, water works valves, fire hydrants, cast-iron soil pipe, pipe fittings, plumbing materials and accessories thereto. Applicant's hauling of citrus fruits has declined due to proprietary hauling. The hardware and construction material shipments are going to job sites, construction projects, storage lots, and warehouses. These shippers are all located in Los Angeles, Huntington Park and Corona, California, and described shipments to the Oakland and Sacramento areas. The route most frequently mentioned to be used is Highway 99 up the San Joaquin Valley. No witnesses were called in regard to or mention made of the commodities to be handled on the return trip, from the Sacramento, Oakland and San Francisco areas.

The first shipper witness called by applicant ships up Highway 99 to Oakland and Sacramento areas and also uses other carriers substantially. The last shipper witness called is a contractor who has no present job which furnishes traffic to the applicant at present. This leaves three other shippers who appeared for applicant. The next one mentioned a big job, the Kaiser Center building in Oakland, where applicant was used. This shipper is also a contractor bidding on jobs and has many of its own trucks and uses other carriers. Of the two remaining shippers one estimated that 30 percent of its traffic went to applicant and the other that 10 percent went to applicant. Both of these are contractors and manufacturers shipping to construction jobs mostly in the Sacramento and Oakland areas. The shippers testified to some difficulties with other carriers as to payment of claims and prompt deliveries. One shipper testified to need for a long trailer, furnished by applicant; another testified to applicant's familiarity with his special commodity. Another

shipper stated he needed a carrier who would break bulk at San Leandro. No shipper witnesses were called by applicant to testify regarding shipments moving south from the San Francisco, Oakland and Sacramento areas. The shipper witnesses had few difficulties with their present shipping needs and requested no additional regular schedules between fixed termini by this carrier, but would like to have the certificated service of this carrier extended for greater reliability and for split deliveries.

The service of applicant is primarily concerned with the transportation of large and heavy commodities, most, if not all, of which are covered and can be handled under its limited commodity certificate. This is to be distinguished from a steady flow of general commodity traffic, which this applicant does not have. It also appears that practically all of the shippers who testified require transportation primarily for job-site deliveries. This irregular movement is consistent with the certificated and permitted authority which this applicant presently holds.

Protestants' Evidence

Protestants submitted the testimony of four shipper witnesses who have shipping needs in their businesses which involve business machines, wood and metal furniture, bed springs, mattresses, decorative papers, and kindred products. All of these shippers testified that their shipping needs were well-supplied and feared rate increases when trucks run empty or partly empty.

Each of the protestants' shipper witnesses ships daily into the area sought, uses more than one carrier and is aware of the availability of other certificated carriers should they be needed.

Each of these witnesses indicated their concern with the problem of increased freight rates if applicant should be certificated and for that reason they oppose this application.

Eight of the protestants appeared and testified in opposition to the application. All of said protestants testified to substantial empty space on their moving vehicles; that they have the facilities and equipment to handle a large volume of additional freight in the area covered by the application; that there is an abundance of reliable certificated transportation service available to the shipping public; and that there is no need for additional common carrier certification in this area.

Each of the protestants which appeared testified that they (1) offer overnight service to all points, (2) maintain modern fleets and terminals, (3) advertise and solicit freight extensively within the area of the application, and (4) provide the best possible service. It appears from their testimony that the costs to these existing highway common carriers of providing the service required by their certificates do not vary appreciably with the rise or fall of tonnage tendered to them and that any dilution of tonnage resulting from additional certification inevitably causes higher unit costs. ✓

Findings and Conclusions

Upon full consideration of the evidence, the Commission finds and concludes that applicant has failed to establish that public convenience and necessity require the proposed service. The application will be denied.

ORDER

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

IT IS ORDERED that Application No. 43163 is denied.

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

Dated at San Francisco, California, this 13th day of MARCH, 1962

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners