

ORIGINAL

Decision No. 63543

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A. MEYERS and R. B. MEYERS, co-)
partners, engaged in business under)
the firm name of WESTERN TRANSPORTA-)
TION COMPANY, for the extension of)
a certificate of public convenience)
and necessity as a highway common)
carrier of property.)

Application No. 43011
(Filed December 27, 1960)

Ivan McWhinney, for applicant.
Graham James & Rolph, by Boris H. Lakusta, for
Di Salvo Trucking Company, Delta Lines,
Inc., Fortier Transportation Co., Inter-
lines Motor Express, Shippers Express,
Pacific Motor Trucking Co., Valley Lines
and Valley Express, Associated Trans-
portation Co., Oregon-Nevada-California
Fast Freight and Southern California
Freight Lines, Sterling Freight Lines,
Merchants Express, Willig Freight Lines,
and California Motor Express and Cali-
fornia Motor Transport, Ltd., protestants.
Dale N. Stark, for Ampex Video Products Co.,
Philip J. Bovera, for Peninsula Traffic
Consultants, and Omar E Pullen, for Re-
tail Furniture Association of California,
interested parties.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf on February 28, April 18, June 12 and 13, 1961, in Los Angeles, and on April 11, August 14 and 15, 1961, in San Francisco. It was submitted on August 15, 1961, subject to the filing of concurrent opening briefs and concurrent reply briefs which are now filed.

Copies of the application and the notices of hearing were served in accordance with the Commission's procedural rules.

The protestants are Di Salvo Trucking Company, Delta Lines, Inc., Fortier Transportation Co., Interlines Motor Express, Shippers Express, Pacific Motor Trucking Co., Valley Lines and Valley Express, Associated Transportation Co., Oregon-Nevada-California Fast Freight and Southern California Freight Lines, Sterling Freight Lines, Merchants Express, Willig Freight Lines, and California Motor Express and California Motor Transport, Ltd.

The applicant is a highway common carrier presently transporting general commodities, with the usual exceptions, between all points on or within ten miles laterally of various designated routes between El Rio and Newport Beach, Santa Barbara and Santa Ana, Bakersfield and Redlands, Ventura and Castaic, Santa Monica and San Bernardino, Los Angeles and Wilmington, Pasadena and Long Beach, and Long Beach and San Bernardino, as authorized by a certificate of public convenience and necessity issued by the Commission in Decision No. 54542, dated February 19, 1957, as amended by Decision No. 55030, dated May 21, 1957, in Application No. 36495.

Applicant also holds radial, contract and city carrier permits. Applicant requests authorization for extension of such highway common carrier operations so as to transport general commodities in the San Francisco Territory and between said territory and Bakersfield, Manteca, Stockton, Santa Barbara, San Diego, and intermediate points over connecting highways.

The rates, rules and regulations proposed to be assessed and observed by applicant will be on the level and in the nature

of the minimum rates, rules and regulations prescribed by this Commission for the transportation of the commodities hereinbefore described. The proposed service will be rendered on schedule on a daily basis.

Applicant has available for operations a total of 310 pieces of equipment, approximately two-thirds of which are owned and the remainder are leased. 273 pieces of motor equipment are being used in its service. Applicant has terminal facilities at Los Angeles of approximately 3½ acres, with offices, maintenance shops, spur track facilities for 22 rail cars and 42 truck doors. Terminal facilities are maintained at San Francisco consisting of a minimum of 15,000 square feet, with additional space available.

Exhibits Nos. 1, 2 and 3 are balance sheets of applicant and Western Truck Leasing Company. Exhibit No. 58 is a summary of applicant's owned and leased equipment.

Exhibits Nos. 4 through 57 were by protestants and largely include lists of operating points, personnel, equipment, vehicles, terminals, descriptions of routes, and maps, authorities, rate finders, advertising copy and advertising expenses. Exhibits Nos. 35, 36, 37, 52 and 53, also describe statistical information concerning shipment tonnage, population comparisons, shipments transported by public witnesses, lists of carriers certified, and descriptions of freight handled.

Applicant's Evidence

The applicant supported its application with testimony of nine public witnesses, all of whom testified that applicant is

providing a necessary and specialized transportation service when they need it.

No witnesses were called from the areas outside of Los Angeles and San Francisco in the vicinity of Oakland, Manteca, Stockton, Santa Barbara, Bakersfield and San Diego to which this applicant wishes to extend its certificated operations. Of the nine witnesses who testified for applicant, four are from Los Angeles, three from San Francisco and two from Redwood City. The four Los Angeles witnesses are all department store traffic managers -- May Co., Broadway, S. H. Kress & Co., and Rasco. Two of the San Francisco witnesses are traffic consultants purely, and the other is a clothing store traffic manager -- Roos Atkins. Of the Redwood City witnesses one was a traffic consultant for small industrial firms and the other a traffic manager for Ampex Video, a manufacturer of tape recorders, cameras and parts.

The supporting shippers have shipments moving from and to the points now served by the applicant and also from and to the points proposed to be served by the applicant. They now use applicant's service to the points it presently serves and will use its service to the new points proposed to be served by it, mostly between Los Angeles and San Francisco. The shippers have no serious shipping problems which can be solved by expansion of this certificate.

The testimony of two witnesses, Omar E. Pullen and Robert E. Davis, was inaccurate, incorrect and evasive and cannot be considered, and neither furnished any written authority for the

representations of the accounts claimed, of which several were proven to be without authority, and thus demonstrates the unreliability of the testimony of such traffic representatives who cannot control their accounts. There were only two other witnesses who testified in San Francisco, the major area to which this applicant requests expansion, one representing a clothing store and the other a small manufacturer.

A substantial portion of applicant's freight is from interstate pool car shipments in the Los Angeles area where applicant operates under its certificate, and in the San Francisco port. The electronics manufacturer supported the application for Los Angeles shipments, mainly to reduce dock congestion but admitted the possibility that it might not do so. Ampex, however, had not used applicant under its radial or contract permits. The five department store shippers also testified to dock congestion and did not support the application on account of superior service by the applicant and would not give to applicant all or any large part of their traffic.

The applicant did not present any evidence respecting origin of revenue, whether it was interstate or intrastate, whether earned under contract, radial or city carrier permits. Specific information regarding applicant's business operations was not divulged.

Applicant submitted a list of its equipment, but this list and the other evidence does not show the age, make, type or condition of repair of this equipment, and no testimony was offered in regard thereto. There was no showing by applicant that it has the equipment to perform the proposed expanded schedules of operation.

Protestants' Evidence

The protestants submitted the testimony of seven public witnesses and nine carrier witnesses. The public witnesses testified to the excellent and satisfactory service of their carriers and stated that all of their shipping needs were adequately cared for. The protesting carrier's witnesses testified that their companies have unused space in their equipment and that any increase in applicant's authority will reduce their traffic and cause increases in rates, that the service offered in the territory in question is presently adequate and the shipping public would not benefit from the proposed service. All of the protestants could handle substantially more freight without expansion of facilities.

No shipper witnesses were called from the San Diego area. Eleven of the 19 shippers represented at the hearings have no need for shipments to or from the points south of Los Angeles to San Diego, including Oceanside, Bonsall, Fallbrook, Escondido, Miramar, Lakeside and Bostonia. The other shippers having traffic to or from San Diego have a minimal number of shipments and support the application on the chance that use of applicant would reduce dock congestion, but all agree that present services are satisfactory and that existing carriers are operating with unused capacity.

Findings and Conclusions

Upon 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.

O R D E R

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

IT IS ORDERED that Application No. 43011 is denied.

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

Dated at San Francisco, California, this 1st day of May, 1962.

George W. Page
President

John Mitchell

S. Lynn Fox

Commissioners

*I dissent. It is my judgment that the application should have been granted.
Frederick B. Hallock*