

ORIGINALDecision No. 65631

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRANK E. WILLS and GEORGE A.)
 SCHIMMELPFENNIG, a copartnership,)
 doing business as WILLS DELIVERY)
 SERVICE, for removal of restrictions)
 and for authority to operate as a) Application No. 44494
 highway common carrier between all)
 points and places presently served)
 and other points and places in the)
 San Francisco Territory as defined)
 in Item 270-3C of Minimum Rate)
 Tariff No. 2.)

Norman R. Moon and George A. Schimmelpfennig, for
 applicants.
Graham, James & Rolph, by Boris H. Lakusta, for
 Blankenship Motors, Inc.; California Motor
 Transport Co. and California Motor Express, Ltd.;
 Delta Lines, Inc.; Di Salvo Trucking Company;
 Garden City Transportation Company; Merchants
 Express of California; Nielsen Freight Lines;
 Oregon-Nevada-California Fast Freight and
 Southern California Freight Lines; Pacific Motor
 Trucking Company; Valley Express Company; and
 Willig Freight Lines; protestants.

O P I N I O N

This application was heard before Examiner Fraser on December 19, 1962 and February 5, 7 and 8, 1963. It was submitted on April 26, 1963, after the receipt of final answering briefs.

Applicants are now operating under permitted authority as a radial highway common carrier, a highway contract carrier and a city carrier. Applicants are also operating as a certificated highway common carrier, under the authority granted by Decision No. 55445, dated August 20, 1957, in Application No. 38476, presently transporting boilers, furnaces, radiators, stoves and related articles, conduit pipe, smokestacks, tubing and fittings, coolers, cooling rooms, cooling boxes or refrigerators.

electrical appliances or equipment, lamps, lanterns, lighting fixtures, machinery or machines, between all points in the San Francisco - East Bay Cartage Zone and between the zone, on the one hand, and Fremont, Newark and points lying between Fremont and the zone, on the other hand, also between the zone, on the one hand, and Hercules, Antioch, Martinez, Dublin, Walnut Creek and intermediate points, on the other hand.

Applicants request authorization to extend such highway common carrier operations to transport general commodities, except live animals, commodities in bulk, uncrated used household goods, office fixtures and commodities requiring insulated equipment under mechanical refrigeration, between all points and places presently served, and between all points and places in the San Francisco Territory as described in Item 270-30 of Minimum Rate Tariff No. 2, also including the points of Vallejo and Livermore.

One of the applicants testified he has been a partner in the business since August of 1955; operations are now handled out of a single terminal in Oakland with 13 drivers, two dockmen, two permanent and two part-time office employees, and the two partners who are the applicants herein; and their equipment list (Exhibit No. 3) includes nine van trucks, three flat body trucks, two pickup trucks, one tractor, two flat beds and one van trailer. All but three of the trucks are radio equipped, to enable the dispatcher to communicate with them while they are on the road. If the requested authority is granted, the applicants will provide a five day a week regular service for the rates set out in Minimum Rate Tariff No. 2. The applicants' Profit and Loss Statement (Exhibit No. 2) for the period from January 1, 1962 to October 31, 1962 shows a total freight revenue of \$184,512.17 and total expenses of \$156,170.71, with a net profit for the period of \$28,341.46.

The witness testified the applicants are applying herein to haul general commodities and to have their certificated area extended because several of their accounts have requested additional service and have asked the applicants to haul items they are not certificated to handle; also, the applicants are frequently asked to perform deliveries to several bay area points on the same shipment and split delivery problems occur, which will be eliminated if the requested authority is granted. The witness testified that the applicants serve about thirty customers daily, under their present certificate, who have used this service for five or more years. These make up 75 percent of their certificated business. He stated the remaining 25 percent have been served by the applicants for at least one year. The witness testified the applicants also have ten or 12 customers who ship outside of the area the applicants serve as a certificated carrier. These usually ship hardware and bathroom fixtures and supplies, which are commodities excluded from the applicants' certificate. At least one of these customers also uses the applicants as a certificated carrier. The witness testified the applicants are applying for an extension of their certificate only to provide better service to their present customers.

The applicants presented six shipper witnesses.

The secretary-treasurer of State Electric Supply of Oakland testified as follows: that his company ships electrical supplies, equipment and appliances and that the shipments average from 50 to 3,000 pounds in weight; that his company ships to points in the applicants' present certificated area and also to points in the area they hope to serve; that he selects the carriers and uses the applicants herein along with others; that he has used the applicants since they went in business and is pleased with their service, including the settlements on damage claims; that he is convinced it will help his company if this application is

granted; and that he seldom has any need for a split delivery service.

The Oakland branch manager of Westinghouse Electric Supply testified he ships electrical apparatus and supplies and some electrical housewares; that he has used Wills Delivery Service for 12 years and has found their service to be excellent; that he ships to the area now served by the applicants as a certificated carrier and also to the area the applicants hope to serve; that his shipments vary in size from 100 pounds up to 5,000 pounds, and split delivery shipments are made throughout the area the applicants hope to serve; that he would prefer the applicants to take over the hauling, now being done by a contract carrier, for their new Sunnyvale plant; and also from Oakland to Vallejo, although the two carriers they are now using on the latter haul give average service.

The General Traffic Manager of the Simon Hardware Company of Oakland and Walnut Creek testified that his company ships about 80,000 separate items, including automotive parts, machinery, drills, saws, a complete line of sporting goods, builders' hardware, kitchen appliances, reefers, freezers, washers, driers, paints, pipe, complete plumbing supplies and equipment, furniture, drugs, household equipment, liquors, men's wear and jewelry. He stated eight or nine regular carriers load at his loading dock, but it could be as many as 20 or 25 a day. He testified that he designates the carriers to be used by his company and he has used Wills Delivery Service for four and a half or five years because of the excellent service they provide; that he ships to all of the applicants' present and hoped-for area, with his shipments averaging from 5 to 250 pounds in weight; that his organization has very few split delivery shipments and split delivery service would be a questionable advantage to his traffic department. He testified that he now uses United Parcel Service for just about all of his deliveries, but this

service delivers to different outlying areas each day of the week, with some of the more important zones getting service on two or three week days; and that United Parcel Service does not provide next-day service except on packages under 50 pounds and 8 feet in length. The witness stated if the applicants receive their new certificate, he is certain they will provide same-day or overnight service and he will use them to haul all water heaters and other materials that customers demand in a hurry. He stated most shipments would still go by United Parcel Service since he has a contract with them and most of the items he ships do not require a rapid delivery. He testified that Wills Delivery Service is hauling all his water heaters now, since he does not need a daily service to all areas. He testified his need for service to most areas is occasional and some service is provided by his Walnut Creek installation, where he has an assistant traffic manager.

The operating manager of the General Electric Supply Company in Emeryville testified as follows: his company ships electrical supplies and portable appliances in shipments of 30 pounds to 30,000 pounds; he does not make split deliveries; he ships to all of the area the applicants now serve and to all of the area they hope to serve; he uses 10 or 12 carriers regularly and has used Wills Delivery Service since 1952 or 1953; the applicants give him quick and adequate service and they promptly settle all damage claims; he uses Wills Delivery Service to points in the area they now serve, viz., San Mateo, Belmont, San Carlos and to mid-peninsula points; he hopes to use the applicants' service to the San Jose area as soon as his business is developed in the area.

The Vice President of Slakey Brothers in Oakland testified that his company ships plumbing, heating and sheet metal supplies in shipments averaging 1,000 to 5,000 pounds, to about all points in the Bay Area. The witness stated his company is using Wills Delivery Service

now and would like to extend their operation with Wills Delivery Service. He stated his company has no split delivery problems and he testified he was not sure under what authority the applicants are operating when they haul his goods.

The President of the W. B. Imholt Company, San Francisco, testified that his company ships steel, pipe, conduit, fittings and other hardware, which are all included in the commodities on the applicants' present certificate; that he uses five or six carriers and his shipments average from 250 pounds to 25,000 pounds, with deliveries made to all points in northern California; that he very rarely makes split delivery shipments, but he prefers the applicants' company because they are reliable, give prompt and adequate service and because he has never had a damage claim against them. He testified he uses Wills Delivery Service out of Oakland and another carrier out of San Francisco down the peninsula to San Jose. Shipments from Oakland to the San Jose area average 10 or 15 a month depending on business. He testified he has some shipments where a part is picked up in Oakland, and the remainder in San Francisco, and he wants Wills Delivery Service to handle these, but he was not aware that they might be able to do so under their present authority.

Seven of the protestants presented evidence. California Motor Transport Co., Delta Lines, Inc., Merchants Express of California, Pacific Motor Trucking Company, Willig Freight Lines, Garden City Transportation Company and Blankenship Motors, Inc., submitted oral and documentary evidence. In view of our findings and conclusion a discussion of their evidence is not necessary.

The issue presented herein is simply whether the applicants should be certificated to carry more commodities over a greater area.

Based upon the evidence we hereby find that:

1. The applicants do not haul general commodities and have no apparent desire to do so, although they may occasionally transport items not listed on their certificate.

2. The testimony of the witnesses presented by the applicants shows no need for a regular split delivery service, or for the regular and continuous service expected of a certificated highway common carrier.

3. The applicants are now serving outside of their certificated area under their permitted authority, and it appears there is only an intermittent or occasional need for this service, which can be continued under the permits they now hold.

We therefore conclude that the applicants have failed to establish that public convenience and necessity require the proposed service. The application will be denied.

O R D E R

IT IS ORDERED that Application No. 44494 is denied.

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

Dated at San Francisco, California, this 2nd day of JULY, 1963.

George J. Grover
President
Frederick B. Holmoff
William L. Brunell
Commissioners