

T A N I D I O

Decision No. 67195

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of
 NORTH AMERICAN VAN LINES, INC.)
 an Indiana Corporation, pursuant)
 to the provisions of Sections 1010,)
 1063 and 1064 of the Public Utilities)
 Code, for authority to extend its)
 operations as a highway common carrier)
 and an express corporation from and to)
 its new terminal in Pico Rivera,)
 California, and for authority to)
 deviate from the rates and provisions)
 of Minimum Rate Tariff No. 11-A.)

Application No. 46047
 (Filed December 18, 1963)
 (Amended February 20, 1964)

Cromwell Warner, for North American Van Lines, Inc.,
 applicant.
R. C. Bels, for Furniture Manufacturers Association
 of California; and James Quintrall, J. C. Kaspar
 and A. D. Poe, for California Trucking Association,
 interested parties.
Robert I. Shoda, for the Commission staff.

O P I N I O N

This application was heard and submitted February 20, 1964, before Examiner Thompson at Los Angeles. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Applicant is a nationwide carrier of household goods, operating between points and places in the fifty states and between points in the United States and foreign countries. It also engages in the transportation of new furniture, new store and office fixtures and related uncrated articles from California to all points in continental United States. With respect to its operations in California it performs transportation as a highway common carrier, as an express corporation and as a permitted carrier. This application concerns only its operations under said operative authorities in the transportation of uncrated new furniture and other articles for which

minimum rates were established by the Commission in Minimum Rate Tariff No. 11-A.

Applicant contemplates moving its terminal for the handling of uncrated new furniture from 1925 E. Vernon Avenue in the City of Vernon, to 4739 Durfee Avenue, City of Pico Rivera. By this application it seeks authorities which will enable it to conduct physical operations at the new terminal under the same operative authorities, and at the same rates, as presently authorized at its terminal in Vernon. The sought authorities involve modifications of its present certificates of public convenience and necessity authorizing operations as a highway common carrier and as an express corporation between Los Angeles Territory and other points it serves and the authorization to publish and assess rates from its depot or terminal at Pico Rivera at the same level as the minimum rates for the transportation of new furniture and as if the depot were located at Vernon and Alameda Streets, Los Angeles.

Evidence was offered through testimony of applicant's vice president, its regional assistant to the vice president, its assistant vice president in charge of finance and accounting, representatives of three shippers engaged in the manufacture of furniture and the director of traffic of Furniture Manufacturers Association of California. California Trucking Association and the Commission staff participated in the examination of the witnesses but did not offer evidence.

Applicant's principal place of business in California is located at 4760 Valley Boulevard, City of Los Angeles, where it has general offices and terminal facilities. The terminal facilities at that location are used principally in connection with its household goods transportation and its transportation in interstate or foreign commerce. The property is leased from an affiliated

corporation. That terminal is within the boundaries of Los Angeles Territory, as described in applicant's certificates of public convenience and necessity and as described in Minimum Rate Tariff No. 11-A. It is also within Los Angeles Zone 1 as described in Distance Table No. 4.

The terminal at 1925 E. Vernon Avenue is used only for the handling of uncrated new furniture and related articles. That property is leased from Safeway Stores, Inc. The original lease was for 12 months. After it expired Safeway informed applicant that it would continue to lease the property only on a month-to-month basis because it is considering expanding its own facilities which are adjacent thereto. This terminal is within Los Angeles Territory and also is within Los Angeles Zone 1.

When confronted with the situation mentioned above, and because the property at 4760 Valley Boulevard will not accommodate additional terminal facilities for the handling of uncrated new furniture, and also because an increase in uncrated new furniture traffic necessitates larger terminal space, applicant looked for a new site. It found, and its affiliate purchased, $4\frac{1}{2}$ acres in Pico Rivera fronting on Durfee Avenue. It is constructing offices and terminal facilities which will be completed in June 1964. That property is located $\frac{3}{10}$ ths of a mile easterly of the border of Los Angeles Territory and is slightly less than 3 miles easterly from the limits of Los Angeles Zone 1.

It is the regular practice of furniture manufacturers to tender shipments of uncrated articles at the carriers' depots. Over 90 percent of the furniture traffic handled by applicant involves depot-to-door service. Applicant provides daily service to San Francisco Territory and regular service biweekly to Sacramento. Its present certificates of public convenience and necessity do not

authorize operations from the proposed terminal at Pico Rivera to the northern points. It follows, therefore, that if the requested modifications of its certificates are not granted applicant will no longer be able lawfully to hold itself out to the public to provide daily or regular depot-to-door service from Los Angeles to northern California.

The present terminal at Vernon has 20,000 square feet for handling shipments. Dock facilities are on one side of the terminal so that the same doorways must be used for unloading shipments from shippers' trucks and for loading applicant's equipment with outbound shipments. The volume of traffic has increased to such an extent that there is congestion at the loading docks as well as on the floor of the terminal. Parking facilities about the terminal are inadequate to accommodate shippers' trucks waiting to deliver shipments and for applicants' vehicles awaiting a spot to load outbound freight. The new terminal will have 40,000 square feet of floor space available for the handling of shipments. There will be 11 doors on one side of the terminal for receiving freight and an equal number of doors on the opposite side for the loading of outbound shipments. On the receiving side of the proposed terminal there will be staggered dock height levels to accommodate the various types of shippers' trucks that call to tender shipments.

There are five other highway common carriers in Los Angeles that compete with applicant. All of them have their depots at locations within Los Angeles Territory and within Los Angeles Zone 1.

Said carriers maintain rates substantially the same as those of applicant, that is to say, at the levels prescribed in Minimum Rate Tariff No. 11-A.

The three shipper representatives testified that they use the services of applicant as well as those of its competitors. They wish to continue to use the services and will do so as long as

applicant's rates are no higher than its competitors. It is their practice to tender shipments at carriers' depots and they support this application because they believe that the new terminal facilities will provide them with better service. Although in two instances the new terminal will be more distant from the manufacturers' places of business, the expanded facilities are expected to reduce the delay from the time the manufacturers' trucks leave their plants to deliver shipments at the depot until their return. The witnesses testified that they would seldom, if ever, use applicant's services if its rates were higher than its competitors.

The director of traffic of Furniture Manufacturers Association of California testified that the association strongly supports the granting of the authorities herein sought. He said that he had made a survey of the agencies and facilities in the Los Angeles area available for the transportation of uncrated new furniture and has determined that there is not an excess of truck transportation. He stated that applicant is one of the larger carriers of new furniture and that only one other carrier provides as extensive common carrier service in California as applicant. He stated that if the applicant were to charge rates higher than its competitors, the manufacturers would use applicant's services only when other transportation facilities were not available but because of the limited transportation facilities the shippers at times would have to use applicant's service and thereby be required to absorb the higher rates.

We take official notice of the fact that the boundaries of Los Angeles Territory described in applicant's certificates and in Minimum Rate Tariff No. 11-A are identical with the boundaries of Los Angeles Territory described in Minimum Rate Tariff No. 2 prior to March 29, 1955 on which date the Commission issued Decision No. 51249 in Case No. 5452 (Petition 22) modifying Minimum Rate Tariff No. 2 to extend the boundaries of Los Angeles Territory to include additional area, including the site of applicant's proposed terminal.

We find that:

1. Applicant provides to the public a necessary depot-to-door service in the transportation of uncrated new furniture and related articles.

2. The transportation service which applicant will perform from its new terminal at Pico Rivera will be better and will be more convenient to the public than the service it presently renders at its terminal in Vernon.

3. The extension and enlargement of the authorities conferred in applicant's certificates of public convenience and necessity to include the proposed terminal at Pico Rivera will not place a new carrier on the public highways, will not result or tend to result in the removing of property from a beneficial public or private use, and will not impair the economic stability of the transportation industry.

4. The shipping public desires the service proposed by applicant but will make little use of it if the rates assessed are greater than those maintained by applicant's competitors.

5. Applicant is required by the provisions of Decision No. 50114, as amended, in Case No. 5603 to charge and collect rates no lower in volume and effect than the rates and charges set forth in Minimum Rate Tariff No. 11-A.

6. The rates and charges prescribed in Minimum Rate Tariff No. 11-A for transportation from 4739 Durfee Avenue to points and places in northern California are higher than for transportation from Los Angeles Zone 1 and from Los Angeles Territory.

7. All of applicant's competitors have terminals or depots in Los Angeles Zone 1 and in Los Angeles Territory.

8. The rates and charges proposed to be maintained by applicant are no higher than the rates maintained by its competitors for transportation of uncrated furniture and related articles in depot-to-door service and are no lower than the minimum rates for transportation to and from Los Angeles.

9. The establishment of the proposed rates by applicant will not provide it with any unfair advantage over its competitors.

10. Public convenience and necessity require the extension of highway common carrier service and express corporation service by applicant between all points it is presently authorized to serve from or to Los Angeles Territory on the one hand and on the other hand the following described area:

Beginning at the intersection of State Highway No. 19 and Beverly Road in Pico Rivera; easterly along Beverly Road to Durfee Avenue; southerly along Durfee Avenue to Whittier Boulevard; westerly along Whittier Boulevard to State Highway No. 19 and thence northerly along State Highway No. 19 to Beverly Road, point of beginning.

11. The establishment and maintenance by applicant of depot-to-door rates for the transportation of uncrated new furniture and related articles from its terminal at Pico Rivera at the levels of the rates concurrently prescribed in Minimum Rate Tariff No. 11-A for transportation performed from Alameda and Vernon Streets, Los Angeles, is justified by transportation conditions and said rates are, and for the future will be, reasonable for such transportation performed by applicant as a highway common carrier, as an express corporation, and as a highway permit carrier.

Applicant requests that the descriptions of Los Angeles Territory set forth in Decision No. 33814 in Application No. 23745, Decision No. 35453 in Application No. 24483, Decision No. 43440 in Application No. 30303, and Decision No. 36824 in Application No. 25830 be amended to include the area described in Finding 10 above.

Applicant acquired its common carrier operative rights from Trojan Furniture Express pursuant to authority granted by the Commission in

Decision No. 64768 dated January 8, 1963 in Application No. 44827.

The decisions referred to above conferred the operative rights specified therein upon Trojan's predecessors in interest. Applicant's operative rights are extensive and are derived from numerous decisions of the Commission. It would be desirable to restate its authorities in one certificate of public convenience and necessity and thereby eliminate the necessity of referral to many decisions issued by the Commission. However, such restatement is a task requiring more time than available between now and the completion of applicant's terminal. We therefore conclude that applicant should be granted a certificate of public convenience and necessity authorizing it to conduct highway common carrier operations and express corporation operations to and from the area described in Finding 10 herein as an extension and enlargement of Los Angeles Territory described in authorities acquired by applicant from Trojan Furniture Express pursuant to Decision No. 64768.

Applicant's proposal to amend its Local Freight and Express Tariff No. 101 (Pixley Transportation Series) is set forth in Exhibit 9 herein. Applicant intends to provide a description of Los Angeles Territory to include therein the area described in Finding 10 above, and to establish the following rule:

"In determining the applicable rate in this tariff from and to carrier's terminal (depot) in Pico Rivera, California, that terminal shall be considered as located at Vernon and Alameda Streets, Los Angeles, California."

We find that the proposed amendments are reasonable.

With respect to its highway permit carrier operations, applicant requests authority to charge rates in the same manner described above and also requests specifically to be authorized to charge the minimum rates prescribed in Item No. 410 of Minimum Rate Tariff

No. 11-A for transportation between the terminal at Pico Rivera and San Francisco Territory.^{1/} The showing made by applicant concerns only its operations to and from its new terminal. Alameda and Vernon Streets, Los Angeles is within Los Angeles Territory and Los Angeles Zone 1 so that authority to charge and assess rates the same as the minimum rates applicable to transportation from and to that point for transportation actually performed from or to the terminal at Pico Rivera will enable applicant to assess the same rates as its competitors, including the rates in said Item No. 410.

Applicant's showing herein, and our findings above, relate to justification for applicant's charging the same rates as its competitors. Applicant has stated that it seeks no advantage over its competitors. The authority sought will enable applicant to meet the competition on shipments to the north, however, the physical location of the new terminal could afford applicant a rate advantage in connection with shipments to the southeast. The authority herein, therefore, must be subject to the condition that all shipments of uncrated new furniture and related articles transported to or from the new terminal be rated as if the terminal were located at Alameda and Vernon Streets, Los Angeles. Based on the foregoing we conclude that concurrently with the establishment by applicant of the rule in its common carrier tariff respecting the rates and charges to be assessed from the new terminal, applicant should be authorized and directed to charge and collect rates for the transportation of uncrated new furniture and related articles to or from its terminal at Pico Rivera no lower in volume or effect than the minimum rates established for the transportation of such articles to or from a depot at Vernon and Alameda Streets, Los Angeles.

^{1/} Because of restrictions in its common carrier operations, applicant occasionally uses the rates in Item No. 410 in connection with shipments transported as a highway permit carrier.

The new terminal is not expected to be completed until June 1, 1964; accordingly, applicant will be authorized to defer exercising the authorities which will be granted herein until the terminal is placed in operation but no later than August 1, 1964.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to North American Van Lines, Inc., an Indiana corporation, authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code and to serve the following described area as an extension and enlargement of Los Angeles Territory described in the certificates of public convenience and necessity and operative rights acquired by it pursuant to Decision No. 64758, dated January 8, 1963, in Application No. 44827:

Beginning at the intersection of State Highway No. 19 and Beverly Road in Pico Rivera; easterly along Beverly Road to Durfee Avenue; southerly along Durfee Avenue to Whittier Boulevard; westerly along Whittier Boulevard to State Highway No. 19 and thence northerly along State Highway No. 19 to Beverly Road, point of beginning.

2. A certificate of public convenience and necessity is granted to North American Van Lines, Inc., an Indiana corporation, authorizing it to operate as an express corporation, as defined in Section 219 of the Public Utilities Code, and to serve the area described in ordering paragraph 1 hereof as an extension and enlargement of Los Angeles Territory described in the certificates of public convenience and necessity and operative rights acquired by it pursuant to Decision No. 64768, dated January 8, 1963, in Application No. 44827.

3. The authorities granted above are subject to the limitations, conditions and restrictions set forth in the certificates of public convenience and necessity and operative rights acquired pursuant to Decision No. 64768 for transportation to or from Los Angeles

Territory.

4. North American Van Lines, Inc., is authorized to establish in its Local Freight and Express Tariff No. 101 the proposed revision of the description of Los Angeles Territory and the proposed rule set forth in Exhibit 9 in this proceeding.

5. North American Van Lines, Inc., is authorized and directed to charge and collect for transportation performed as a highway permit carrier of uncrated new furniture and related articles to and from its depot at Pico Rivera rates no lower in volume or effect than the minimum rates established by the Commission for the transportation of said property in depot-to-door service, or return service, as the case may be, to or from Vernon and Alameda Streets, Los Angeles, California.

6. The effective date of the authority and directive contained in ordering paragraph 5 herein shall be the date the tariff changes authorized in ordering paragraph 4 are made effective.

7. In providing service pursuant to the certificates 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 certificates herein granted. By accepting the certificates 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 of the California Highway Patrol, the 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) Applicant shall establish the service herein authorized on or before August 1, 1964 and the authorities herein granted shall lapse and terminate unless exercised on or before said date.

- (c) Tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

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

Dated at San Francisco, California, this 12th day of May, 1964.

William W. Bennett
 President
W. H. ...
W. H. ...
George H. ...
 Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.