

ORIGINAL

Decision No. 79744

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ASSOCIATED FREIGHT LINES, Arthur R.)
Altnow, doing business as LODI TRUCK)
SERVICE, MORRIS DRAYING COMPANY, DELTA)
LINES, INC., PACIFIC MOTOR TRUCKING)
CO., Walter F. Peters, doing business)
as PETERS TRUCK LINE, POZAS BROS.)
TRUCKING CO., STERLING TRANSIT COMPANY,)
INC., E. Guy Warren, doing business as)
WARREN TRANSPORTATION CO., and WESTERN)
MILK TRANSPORT, INC. for an order of)
the Commission instituting an investi-)
gation into the operations of all high-)
way carriers of property with particular)
reference to traffic flows, economic)
data, and other information relating to)
the movement of freight over highways)
by the various types of such carriers.)

Application No. 53043
(Filed December 6, 1971)

O P I N I O N

Associated Freight Lines; Arthur R. Altnow, doing business as Lodi Truck Service; Morris Draying Company; Delta Lines, Inc.; Pacific Motor Trucking Co.; Walter F. Peters, doing business as Peters Trucking Line; Pozas Bros. Trucking Co.; Sterling Transit Company, Inc.; E. Guy Warren, doing business as Warren Transportation Co.; and Western Milk Transport, Inc., request an order of the Commission instituting an investigation into the operations of all highway carriers of property with particular reference to traffic flows, economic data, and other information relating to the operations of the various types of carriers within the state.

Applicants are presently providing service within the state pursuant to certificates and permits duly issued by this Commission. Applicants are also protestants in the application of Thompson Bros., Inc. (Application No. 52032), which was heard and submitted on concurrent opening and closing briefs, the latter having been filed on January 11, 1972.

Because applicants believe that the Thompson Bros.' decision will be of policy making significance, protestants in effect desire the record to be supplemented with data developed by the Commission staff as the result of a general investigation.

On January 12, 1972, Thompson Bros., Inc., Freight Forwarding Co., Inc; Spear Enterprises, Inc., doing business as United Truck Line; and Bruno Albert Malucchi, doing business as A. M. Devincenzi Company (each of whom has an application for certificated authority pending before the Commission), filed a protest, reply and answer to the application. They take the position that the filing of the application is an unfair attempt to reopen the Thompson Bros.' proceeding after extensive hearings were held and all parties were afforded ample opportunity to make full presentations. They argue that the instant application is a "thinly-disguised stall tactic" by the applicants herein.

The Commission in the past has conducted an investigation comparable to the type suggested by applicants (Decision No. 50448, dated August 17, 1954, in Case No. 5478, 53 Cal. P.U.C. 366). It is possible that the Commission may institute another such investigation in the future, but it will not do so for the purpose of satisfying a collateral attempt to reopen and delay determination of a pending matter. A general investigation would require months to prepare, hear, and decide. Such an investigation could result in a policy decision that would establish guide posts for future applicants, but to delay action on a pending matter until such guide posts can be applied in an ex post facto manner would be extremely unfair and inequitable.

After consideration the Commission finds and concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 53043 is hereby denied.

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

Dated at San Francisco, California, this 23rd day
of FEBRUARY, 1972.

William J. ... Chairman
...
Vernon L. Sturgeon
... Commissioners

Commissioner J. P. Vukasin, Jr., being
necessarily absent, did not participate
in the disposition of this proceeding.