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Decision No. 79860

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THOMPSON BROS., INC.,)
a California Corporation, for a)
certificate of public convenience)
and necessity to extend highway)
common carrier service.)

Application No. 52032
(Filed July 10, 1970)

Bertram S. Silver and Eldon M. Johnson, Attorneys
at Law, for applicant.

Marvin Handler and Raymond A. Greene, Jr., Attorneys
at Law, for Associated Freight Lines, Pacific
Motor Trucking Co., Alltrans Express California,
Inc., dba Walkup's Merchants Express, Delta Lines,
Inc., Pozas Bros. Trucking Co., Lodi Truck Service,
Nielsen Freight Lines, Coast Drayage, Walter F.
Peters, dba Peters Truck Lines, Sterling Transit
Company, Inc., Keller's Freight Line, Western Milk
Transport, Inc., East Bay Drayage & Warehouse Co.,
American Transfer Co., System 99, Warren Trans-
portation Company and Morris Draying Company;
William H. Kessler, Attorney at Law, for De Boer
Truck Line; Marshall G. Berol, Attorney at Law,
for Ted Peters Trucking Company, Inc.; and
Carl H. Fritze, Attorney at Law, for Kern Valley
Trucking; protestants.

Donald Murchison, Attorney at Law, for Reliable
Delivery Service, Inc., Auto Fast Freight, Inc.,
Los Angeles City Express, Inc., Joseph N. LeBow,
dba Desert Empire Express, Swift Transportation
Company, Milton's Express, Inc. and Victorville
Barstow Truck Line; and Carl H. Fritze, Attorney
at Law, for Brake Delivery Service, City Transfer,
Inc., G & H Transportation, Inc., Griley Security
Freight Lines, Imperial Truck Lines and Qwikway
Trucking Co.; interested parties.

O P I N I O N

Thompson Bros., Inc. (hereinafter referred to as TBI),
presently providing service as a highway common carrier for the
transportation of general commodities moving in intrastate, interstate
and foreign commerce between points and places in and around the

San Francisco Territory, requests authority to extend said service between points and places generally throughout the state from Santa Rosa and Redding, on the north, to San Diego, on the south; subject to the restriction that no shipment would be transported having both origin and destination south of the northern boundary of San Luis Obispo, Kern and San Bernardino Counties except where such shipment is a part of a split pickup or delivery shipment, one or more components of which has origin or destination north of said line.^{1/}

Public hearings were held before Examiner Daly at San Francisco, Los Angeles, Sacramento, Redding, Fresno and Santa Rosa covering a period of 31 days. The matter was submitted on September 14, 1971, upon the receipt of concurrent opening and closing briefs, the latter being filed on January 12, 1972.

According to applicant's president, he commenced business in 1937 under the name of Terminal Freight Line. In 1940 he purchased TBI, which was then conducting public warehousing and drayage operations in the San Francisco area. During the ensuing years applicant's operations were enlarged by the acquisition of Dodd Warehouse and Drayage Company in 1957 and by the use of Thompson Brothers Freight Forwarding Co., Inc. (hereinafter referred to as TBFF) as a permitted carrier commencing in 1967. The certificated operations of applicant have expanded from the San Francisco-East Bay Cartage Zone into Contra Costa and Alameda Counties and south as far as Gilroy. Because of a restriction in the operative rights acquired from Dodd Warehouse and Drayage Company, applicant is limited in a portion of its certificated area to shipments having either warehouse origin or destination. All permitted operations beyond the certificated area are conducted by TBFF. In the event the instant application is granted it is the intention of applicant's

^{1/} Exhibit 3.

president to terminate the operations of TBFF, transfer all of its assets and facilities as a carrier to applicant and conduct all carrier operations thereafter through applicant.

Applicant operates as a public utility in the Bay Area and in addition thereto conducts extensive pool car operations. It maintains terminals in San Francisco, Oakland, Richmond, Sacramento, Fresno and Long Beach. Negotiations have been entered into for a terminal at Redding. Terminals in Santa Rosa and Salinas are planned for 1972. All of the existing terminals are equipped with two-way radio systems for dispatch control of equipment and intercommunication between offices. Radio relay sites direct highway equipment by voice communications from San Diego to Chico. Applicant owns and operates 518 units of equipment including 16 refrigerated trailers. It has 325 employees. As of June 30, 1970, applicant indicated a net worth in the amount of \$428,687. As of the same date TBFF indicated a net worth in the amount of \$26,505.

One of the factors that assertedly motivated the filing of the instant application is the fear that the permitted operations conducted by TBFF may be reaching the point of questionable legality. Applicant's president testified that as applicant's warehouse and trucking operations expanded during the 1950's, certificated authority for both was sought and granted accordingly; that during the expansion experienced in the 1960's applicant failed to keep pace with necessary regulatory requirements; that as a result extensive permitted operations were conducted by TBFF in order to satisfy the wide distribution pattern of applicant's customers; that if applicant refuses to provide service to its customers upon request they will seek other carriers; and that if applicant is not certificated to meet the increasing needs of its customers, it will have to substantially reduce the permitted operations of TBFF or face a possible cease and desist order. Applicant is hopeful that the Commission will consider the past permitted operations of TBFF as evidence of an existing need for applicant's service as a certificated carrier.

Another factor in the filing of the application is applicant's desire to provide a split delivery service to all points within the proposed area.

Over and above applicant's fear that the operations of TBFF may be unlawful and the desire of applicant to provide a split delivery service, is applicant's conviction that there is an existing need for additional highway common carrier service within the State of California. Applicant contends that many long line interstate carriers, such as ONC-So Cal, Valley Motor Lines-Valley Copperstate, Western Gillette, and Ringsby, have discontinued their intrastate operations as well as their short line interstate operations, and have concentrated on long line interstate service. This diminution of service has assertedly placed tremendous pressure upon applicant to provide a package transportation service, which includes warehousing and pool car distribution.

During July, August and September 1970, applicant and TBFF transported 22,492 shipments for a total revenue of \$726,756. Approximately 37 percent of the shipments were less than 500 pounds; 21 percent were between 500 pounds and 1,000 pounds; 15 percent were between 1,000 pounds and 2,000 pounds; 12 percent were between 2,000 pounds and 5,000 pounds; 6 percent were between 5,000 pounds and 10,000 pounds; 3.5 percent were between 10,000 pounds and 20,000 pounds; 2.5 percent were between 20,000 pounds and 40,000 pounds; and 3 percent were shipments of 40,000 pounds and over.

To demonstrate the extent of its operations and the frequency thereof, applicant introduced Exhibit 30, which reflects the number of shipments transported by applicant and TBFF for a selected week during the months of May through October 1970. Included in the exhibit are the points of origin and destination (in many instances by county only) as well as commodity description, pro number and weight. A total of 10,786 shipments were transported having a total weight of 70,407,643 pounds. Of these shipments 8,707 were transported for warehouse accounts and had a total weight of 19,333,562 pounds.

Exhibit 30 was supplemented by Exhibit 176, which covered the month of June 1971. This study specifically identified all points of origin and destination. A total of 7,160 shipments were transported having a total weight of 59,704,465 pounds. Although the bulk of shipments originated at one of applicant's warehouses a sizeable number of shipments transported in June of 1971 originated at such points as Kingsburg, Crockett, Sacramento, Lodi, Long Beach, San Jose, Oxnard, Terminal Island, Los Angeles, Tracy, Richmond, Berkeley, Benicia, Alameda, San Leandro, El Cerrito, Selma, Gardena, Beale Air Force Base, Redding, Vallejo, Garden Grove, Buena Park, Fullerton, Salinas, Beverly Hills, Wilmington, Porterville, Hanford, Burlingame, Galt, Castle, Merced and Nichols. By virtue of their combined services applicant and TBFF operate an average of 60 schedules a day within the San Francisco Bay Area and an average of 35 schedules to points beyond. (Exhibit 178.)

Public Witness Testimony in Support of Applicant

A total of 76 public witnesses testified in support of the application. Of this number 18 testified at Los Angeles, 47 testified at San Francisco and 11 testified at Sacramento. The names of the witnesses, the companies they represent and a brief summarization of their testimony follows:

1. Bernard F. Carpenter (Los Angeles)
Armour-Dial Incorporated.

Warehouses household good products with applicant in San Francisco. Warehouses with another company in Los Angeles. Two million pounds a month out of San Francisco. Likes the combined warehouse and transportation services of applicant. Has need of an interstate service. Has used applicant on intrastate shipments for past three years.

2. Thomas E. Thompson (San Pedro)
Van Camp Seafood Company.

Ships canned tuna and pet food via applicant to San Francisco, Oakland, and Sacramento. Uses applicant 60 percent, CME 30 percent and PMT 10 percent. Primarily split delivery shipments. Ships to Oakland for oversea military distribution.

3. Maynard M. Sass (San Diego)
Coast Citrus Distributors.

Uses own equipment to transport shipments of fresh fruits and vegetables to supermarkets. Has used applicant for past three years on overflow. Ships in truck-load lots and requires refrigeration and temperature control.

4. Richard A. Nelson (Long Beach)
Industrial Service-Division of the Long Beach Goodwill Industries.

Averages 25 shipments of soap and storage boxes via applicant to Bakersfield, Fresno, San Jose and San Francisco Bay Area points. Has limited dock space, would like to use applicant on an interline of interstate shipments moving to Washington, Oregon, Utah and Nevada.

5. Olga Marie Cornelison (Terminal Island)
Star-Kist Foods, Incorporated.

Has used applicant for the past year and a half on split delivery shipments moving to points in the San Francisco Bay Area and the Sacramento area. Applicant is familiar with carton identification. Previously used Associated Freight Lines, but Associated said it did not want the business. Switched to System 99 and Shippers Express, but experienced difficulties because they could not familiarize themselves with the products and therefore missed deliveries. Uses applicant also to Oakland for overseas shipments.

6. John Donovan (Los Angeles)
The Gillette Company, Toiletries Division.
Used applicant on 25 shipments between San Francisco and Los Angeles during May and June 1970 because of the truck strike. The service was satisfactory and would like to use again, but the company policy is to use certificated carriers. Existing service is satisfactory.
7. Bruce B. Higon (Selma)
West Coast Growers and Packers.
Has used applicant for past three years on shipments of raisin moving to Los Angeles and San Francisco Bay Area points. Had previously used Shippers Express, Di Salvo, American Transfer, Associated Freight Lines and Delta Lines, but was not satisfied with the time in transit.
8. Charles O. Anderson (Selma)
Pacific Prize Corporation.
Has used applicant almost exclusively for past year on shipments of raisin moving to San Francisco, Sacramento, Stockton and the Ports of San Francisco, Sacramento and Stockton. Applicant's service is excellent because it picks up the same day that a call is placed and delivery is made the next day. Other carriers would not pick up until the next day.
9. Donald A. Jackson (Fresno)
Davis Sales of Fresno.
Makes shipments of clothing to supermarkets and chain stores throughout the San Joaquin Valley and Los Angeles. Existing service not satisfactory because of delays in transit, shortages and claims. Does not now use applicant.
10. Jeanne Landresse (Fresno)
Valley Fig Growers Corp.
Has used applicant for past two years to San Francisco Bay Area points and the Ports of Stockton, San Francisco, and Oakland. Existing service via Sterling Freight Lines, and CME fairly good, but not always overnight. Applicant's service is excellent.

11. William A. Koenig (Kingsburg)
Sun-Maid Raisin Growers of California.
Occasionally has advertising material moving to the Ports of Oakland, Alameda, Stockton and San Francisco. Would like to use applicant's service.
12. Jack L. Leonard (Fresno)
Northrup King & Co.
Makes shipments of seed to own facilities in Yuba City, Berkeley, Modesto, Bakersfield, Los Angeles, and Imperial. Commenced using applicant in past few months between San Francisco/Los Angeles because existing carriers were not providing an overnight service between these points. Applicant's service is excellent. Needs another certificated carrier out of Fresno. In the recent past has lost the services of ONC and Valley. Has occasion to make LTL shipments of alfalfa to the Ports of San Francisco and Oakland. Would continue to use existing carriers, but would switch some of the traffic to applicant.
13. Gunter Barmaper (Los Angeles)
Swiss American Cheese Company.
During the strike in 1970, used applicant's refrigerated service on shipments moving to the San Francisco Bay Area and Sacramento. After the strike went back to using Di Salvo, which provides a satisfactory service on shipments of dry freight to Northern California points. Primarily interested in applicant's refrigerated service.
14. Robert William Brown (Los Angeles)
Kern Foods Inc.
Distributes throughout state with own equipment. Uses common carrier on overflow and emergencies. Presently using CME from Southern California to Northern California points. Pickup is excellent, but occasionally the delivery service is poor. Generally speaking CME service is good. After the first of the year will switch a distribution center from

Richmond to applicant's warehouse in Oakland and will use applicant's combined warehousing and transportation services. On traffic moving from Southern California to Northern California would split between CME and applicant. Also has need for refrigerated service and an ICC interline service at Sacramento on traffic destined for Reno.

15. Albert F. Reyher (La Habra)
Alpha Beta Acame Market.

Presently receives shipments via applicant approximately 4 or 5 times a week. These shipments originate with and are controlled by Proctor and Gamble Co. and C & H Sugar Co. The inbound shipments are scheduled. Applicant's service has been very good. Applicant is very cooperative and flexible in scheduling.

16. Donald L. Kinch (Santa Monica)
Ross Laboratories, Division of Abbott.

Warehouses with applicant in Oakland. Uses applicant's service to distribute throughout Northern California. Has interstate shipments to Reno. Also used applicant during 1970 strike on shipments from Southern California to Northern California.

17. James B. Kaufman (Sherman Oaks)
James B. Kaufman & Associates.

Makes shipments of cheese and canned hams to points in Northern California. Requires a refrigerated service. Existing service unsatisfactory.

18. Russ Priestley (Vernon)
Pacific Coast Terminal.

Warehouse for large accounts. During strike used the services of applicant. The service was very good.

19. Robert Damlos (San Francisco)
J. P. Stevens & Company.

Warehouses in Los Angeles and ships to northern points. Would use applicant.

20. John Wollenweber (San Francisco)
S. S. Herspring Company & N. J. Trading Co.
Warehouses with applicant in Oakland. Uses applicant's service to Berkeley, Capitola, Carmel, Citrus Heights, Corte Madera, Fresno, Modesto, Redding, Richmond, Sacramento, Salinas, San Anselmo, San Francisco, San Leandro, San Lorenzo, San Mateo, San Rafael, Santa Cruz and Santa Rosa. Has used applicant 30 times in past several months on truckload shipments.
21. Richard Randolph (San Francisco)
States Steamship Co. - Tykes Bros.
Presently using applicant on interdock movements between Ports of Oakland, San Francisco, Alameda, and Richmond. Service excellent. Also has shipments to Port of Stockton. Presently using Delta, PMT and Consolidated. Not satisfied. Desires to use applicant on interstate shipments between Bay Area and Port of Stockton.
22. Elbert N. Bowen (San Francisco)
Kern Steamship Corporation.
Has occasion to move interstate shipments from Bay Area ports to Stockton. Presently using Delta Lines and service is slow.
23. Mary F. Nieve (San Francisco)
Balfour Guthrie Company.
Has occasion to move interstate shipments between Bay Area ports and Stockton. Also has interstate shipments between San Francisco and Los Angeles. Existing services are adequate, but applicant's service is better.
24. David Abbott (Brisbane)
Michelin Tire Corporation.
Distributes from Brisbane using existing carriers. Service is good. Overflow stock is warehoused with applicant in San Francisco. Uses applicant's service to Northern California points. Service is very good.

25. Ronald R. Baker (New York)
Church & Dwight Company Inc.
Warehouses Arm & Hammer products with applicant in Oakland. Distributes 40,000 pounds a month throughout California points. Desires a combined warehouse and trucking service as provided by applicant.
26. John T. O'Leary (Foster City)
Confectionery broker.
Warehouses with applicant and distributes chocolate candy in a refrigerated service by applicant.
27. Prescott F. Reimir (Redwood City)
Confectionery broker.
Warehouses with applicant and distributes chocolate candy in a refrigerated service by applicant.
28. James W. Long (San Francisco)
Borden Foods Company.
Warehouses with applicant and distributes throughout Northern California via applicant. Requires a refrigerated service.
29. Stanley N. Chiarucci (San Francisco)
S & W Fine Foods.
Ships canned goods from Stockton to points in Northern California. Had used Lodi Truck Service, but because of difficulties switched to Associated Freight Lines. Would like to use applicant's service because it does such a good job.
30. Joseph C. Howard (South San Francisco)
Raddar-Dallas Associates. Food Brokers.
Uses applicant to transport shipments from Burbank to applicant's warehouse in Oakland from applicant, distributes to points in Northern California. Previously used other carriers, but delivery service was unreliable. Applicant's service is excellent.

31. Robert A. Nielsen (San Francisco)
General Steamship Co.

Would like to use applicant's service on interstate shipments moving between Bay Area ports and Port of Stockton as well as between the Ports of San Francisco and Los Angeles.

32. Thomas F. Bisho (Mill Valley)
Cook & Harms. Food Brokers.

Warehouses with applicant in San Francisco and Oakland. Distributes via applicant to Northern California points. Desires the combined warehouse and trucking services of applicant.

33. Ernest F. Happolt (San Francisco)
Charles G. Putnam Company. Manufacturing representative.

Uses applicant's pool car service. Shipments originate in Indiana and are consigned to applicant in San Francisco. Distribution is made by other carriers to Northern California points. Averages 6 pool cars a year and would like to have applicant make the distribution.

34. Roger A. Hackbart (Minneapolis)
Pittsburg Company.

Pool car shipments originate out of state and consigned to applicant at Oakland. Applicant distributes within the Bay Area to the extent of its interstate authority. Other carriers used to points beyond. Because of certain rate advantages that would be afforded if applicant handles the traffic direct, is hopeful that applicant will be able to extend its interstate authority.

35. Victor L. Verdellet (San Francisco)
California Stevedoring-Ballast Terminal Division.

Has one or two shipments a month from Bay Area ports to Ports of Sacramento and Stockton. Presently using Delta Lines, but the service is not as good as applicant's service.

36. Russell M. James (San Francisco)
Mel-Williams Company. Food Brokers.
Warehouses with applicant and uses its trucking service to distribute throughout Northern California.
37. Murray A. Powell (San Francisco)
Tupman Thurlow Co., Inc.
Requires a refrigerated service for interstate shipments moving from the Port of San Francisco to points in California.
38. Roland J. Irving, Jr. (San Francisco)
Manning's Inc.
Has mixed shipments requiring a combined refrigerated and dry freight service. Has occasion to ship to points from Santa Rosa in the north to Monterey in the south. Would use applicant's proposed service.
39. Robert M. Tarr (Redwood City)
Calgon Company.
Warehouses with applicant in San Francisco and uses applicant's transportation service to Sacramento, Anderson, Stockton, Modesto, Santa Cruz, Turlock, Dos Palos, Gilroy, Pittsburg, Antioch, Watsonville and Salinas.
40. S. Emerson Biggs (Burlingame)
J. J. Morris & Associates, Inc.
Food Brokers.
Has warehoused with applicant for 15 years. Uses applicant's transportation service to Northern California points including Redding.
41. Henry Reid (Richmond)
United Grocers. Wholesale distributors.
Manufacturers warehouse with applicant. Distribution is made via applicant to retail stores in Richmond, Redding, Sacramento, and Fresno. Applicant's service is excellent.

42. Edward L. Tobener (Daly City)
Traffic Manager for Landstrom Company.
Testimony disavowed by Robert A. Merriam,
president of Landstrom Company.
43. Robert E. Mullins (San Francisco)
Hoyt Shepston & Sciaroni.
Custom Brokers & Freight Forwarders.
Uses applicant in interstate shipments from
Bay Area ports to points in Bay Area and
desires to use applicant on such shipments
moving throughout California. Existing
carriers will not pick up transportation
documents, has to mail them to the carriers
and delays result. Applicant will pick up
the documents.
44. Paul Stifurak (San Francisco)
Manufacturer's representative.
Copper products originating in Illinois.
80 percent stored with applicant and 20
percent distributed to points in California
from rail cars. Applicant distributes from
warehouse to points as far north as Redding.
Service of applicant is excellent and would
like to use applicant on the interstate
shipments which are distributed from the
rail car.
45. Norman Olkein (San Francisco)
CPC International.
Warehouses with applicant and uses its
transportation service to distribute to
points in California. Desires a combined
warehouse and trucking service.
46. Werner D. Doellstadedt (Richmond)
Richmond Wholesale Meat Company.
Has shipments of frozen meats, poultry and
fish moving from Richmond to points in
Northern California. (80,000 pounds per
month). Has used Peters Truck Line and
Western Transportation Milk. Unsatisfactory
because of late pickups. Presently using
applicant to the Port of San Francisco.
Would like to use applicant's refrigerated
service to northern points.

47. A. R. Chapman (San Francisco)
Foremost Food Company.
Requires a refrigerated service between plants located at Oakland, Sacramento, Fresno, Los Angeles, Glendale, Riverside, San Diego, San Jose, Salinas, San Luis Obispo and Santa Barbara. Uses own equipment and for-hire carriers. Has used Western Transportation Milk and service is generally good. Would like to use applicant's service.
48. Ralph Stings (Berkeley)
Colgate Palmolive Company.
Uses applicant's service from Bay Area points to points in the Central Valley. Occasionally warehouses with applicant. Also uses Coast Line, System 99, Alltrans and CME. Existing services are acceptable.
49. John D. Kriel (San Francisco)
William Diamond & Co.
Steamship Agents.
Occasionally requires truck service from the San Francisco piers to Port of Stockton. On local pier movements uses applicant and service is excellent. On Stockton movements uses Di Salvo and it is not satisfactory.
50. Sam Feldsteen (San Francisco)
Coast Brokerage Company.
Food Broker.
Warehouses with applicant and applicant distributes throughout Northern California. Also uses other carriers on 20 percent of shipments.
51. John F. Chadduck, Jr.
Taft & Suydam. Food Brokers.
Warehouses with applicant. Applicant is like his own traffic department. Applicant performs the transportation service for distribution throughout California.

52. Carl L. Rains (Oakland)
William Doods Company.
Food Brokers.
Applicant performs a combined warehouse and transportation service.
53. Irvin Jack Gibbs (San Francisco)
Gibbs-McCormick, Inc.
Food Brokers.
Uses combined warehouse and transportation services of applicant. Also has rail car shipments from out of state. Uses applicant on local distribution of these shipments and would like to use applicant's service to points beyond Bay Area.
54. Donald Dean Miller (San Mateo)
A. E. Staley Manufacturing Co.
Sales representative.
Uses applicant's combined warehouse and transportation service.
55. Morton E. Duck (Oakland)
Distributes confectionery.
Uses combined warehouse and transportation services. Has need for a refrigerated service. Has rail car interstate shipments and uses applicant on local distribution. Would like to use applicant to points beyond, although the existing service has not been bad.
56. Robert W. Lenton (San Francisco)
The Perry Company.
Sales agent for food products.
Uses applicant's combined warehouse and transportation services.
57. Frank A. Treibel (Benicia)
Chevron Chemical Company.
Warehouses with Stewart Warehouse in Richmond, but uses applicant on shipments of insecticides to points in Northern California.

58. Maximilian Fisherow (San Francisco)
Glen Acre Farms.

Warehouses canned meat products with applicant and uses applicant's transportation service to distribute to points in California.

59. S. Grant Smith, Jr. (San Francisco)
Lypencott Company.

Pool car shipments of garden equipment received from out of state by rail car, consigned to applicant and distributed to points in Bay Area and beyond. Averages 12 cars a year. Would like to use applicant to beyond points as well as locally.

60. Ashley A. Rucker (San Francisco)
Transpacific Transportation Company.

Occasional need for truck service from Port of San Francisco to Port of Stockton. Occasionally requires service from Port of San Francisco to Port of Los Angeles. Has difficulty getting pickup when needed.

61. Miki Moriwaki (San Francisco)
Transmarine Navigation Corporation.

At times requires truck service from Port of San Francisco to Port of Stockton. Has difficulty getting pickups from existing carriers.

62. Peter A. Caneiro (San Francisco)
Ted L. Rausch Company.
Custom brokers and freight forwarders.

Distributes freight directly from San Francisco docks to points in California. Existing service results in delays. Existing carriers require custom papers to be mailed to them rather than pick them up.

63. Robert P. Chapen (Sacramento)
Market Wholesale Grocery Company.
Uses applicant inbound from its warehouses in San Francisco and Oakland. Also uses applicant from Los Angeles. Service excellent. Uses many carriers and the service is generally satisfactory.
64. Kenneth Ackler (Sacramento)
Food Broker.
Interested in a connecting service at Sacramento for interstate shipments destined for Washington and Oregon. Would recommend to their customers that they use the services of applicant.
65. Helen Lee Standard (Sacramento)
Capitol Giftware, Inc.
Presently using applicant to points in California. Would use applicant on interstate shipments interchanged at Los Angeles for Arizona and Nevada. Because of limited dock space would like to have a single carrier pickup both intrastate and interstate shipments.
66. Gerald R. Martynse (Nimbus)
Aerojet Liquid Rocket Company.
Presently using applicant about three times a week on shipments originating at Los Angeles, San Diego and San Francisco. Applicant's service is excellent. Uses many other carriers as well. Has no complaint with the existing services.
67. Bert Gross (Sacramento)
Capitol Cigar Company.
Receives shipments from applicant's warehouses in Bay Area. Selects the carrier 10 percent of the time. Applicant's service is efficient.

68. Rudolph Kaul (Lodi)
Kaul's Nursery, Incorporated.
Ships to Los Angeles, San Diego and Bay Area. Uses applicant. Service excellent. Up to two years ago used Valley and ONC, but they discontinued their intrastate operations.
69. Richard Oki (Sacramento)
Oki Nursery Incorporated.
Uses applicant to points in Southern California. Service is excellent. Also uses Western Gillette, Valley, Delta, CME and Associated. Delta's service unsatisfactory because of late pickups and damages.
70. Willis G. Mapes (Sacramento)
California Almond Growers Exchange.
Presently using applicant on exempt interstate shipments. If certificated would use applicant on non-exempt interstate shipments and on intrastate shipments.
71. Alfred W. Burch (Sacramento)
Zenco Electrical Products.
Presently using applicant out of Los Angeles. Would like to expand use of applicant to points north of Bakersfield to and including Redding and Santa Rosa.
72. Edwin Rick (Sacramento)
Sierra Candy Company.
Requires a refrigerated service. Had used Christianson, but service became unsatisfactory after acquisition by CME. Has never used Western Transportation Milk. Presently operating own truck within 75 miles of Sacramento. Because refrigerated service is so poor has discontinued business to beyond points at a loss of 25 percent of volume.

73. Paul Cooper (Oakland)
Kelley Clark Food Broker.
Uses combined warehouse and transportation services of applicant in San Francisco. Distributes throughout Northern California.
74. Wayne Criss (Redding)
Wonder Metal Products.
Recently moved from San Leandro. Ships to points in the San Francisco Bay Area. Primarily uses Peters, System 99 and ONC. Not satisfied with existing service. Has occasion to make interstate shipments to Port of San Francisco. Would like to have single carrier pickup for both interstate and intrastate shipments. Has never used applicant before, but believes that an additional carrier serving Redding would create competition and improve service.
75. Larry Price (Redding)
United Growers/Bert McDowell Company.
Receives from warehouse accounts of applicant in Bay Area. Would like to see applicant's service continued. Has no complaints with the existing carriers.
76. Hugh Anderson (Lake Shasta)
Lake Shasta Products. (Gift Ware)
Located on Lake Shasta 2 miles off highway and 10 miles from Redding. Existing carriers will not deliver; has to pick up in Redding. Will use applicant if it will deliver shipments originating in San Francisco and Los Angeles areas.

Protestants' Showing

A total of 16 carriers made an affirmative showing in protest to the granting of the application. In addition to operating evidence protestants introduced the testimony of 76 public witnesses, 18 of whom testified in Redding, 21 testified in Sacramento, 15 testified in Fresno, 10 testified in Los Angeles, 4 testified in Santa Rosa, and 8 testified in San Francisco.

The following is a list of public witnesses:

	<u>Name</u>	<u>Company</u>	<u>Location</u>
1.	Robert A. Merriam	Landstrom Co.	Daly City
2.	John E. Gager	Calgon Co.	Redding
3.	John Fitzpatrick	McCall Dairy Products	Redding
4.	Robert Knowles	Redding Paint Mart	Redding
5.	Marvin W. Ferguson	Marv's Auto Paint & Supply	Redding
6.	Robert C. McInnis	Commander Moulding	Red Bluff
7.	Bernard Andrews	USI Film Products	Yuba City
8.	Raymond G. Harris	Payless Drugs	Redding
9.	Jean Meyers	Norman Hardware	Redding
10.	Dennis E. Simpson	Fred E. Barnett Company	Redding
11.	Ron Cesak	Consolidated Electrical Distributors	Redding
12.	Bernard Steffen	Shasta Pipe & Supply	Redding
13.	William B. Fitzpatrick	Pepsi Cola Company	Redding
14.	Fred Caviness	Goodwin Tire Service	Redding
15.	Jerry P. Boyer	Motor Truck Distributors Company	Redding
16.	Jack Jarman	C & J Tire Company	Redding
17.	Charles E. Howell	Cascade Industrial Supply	Redding
18.	Ted L. Todd	Haynes Inc.	Redding
19.	Robert F. Parker	Lassen County Nursery Inc.	Redding
20.	Darrell G. Campbell	Industrial Electric Service	Anderson
21.	Dan Wright	Vita-Bark Incorporated	West Sacramento
22.	Nathan J. Stapleton	Mathews Conveyor Company	Chico
23.	Charles L. Mayfield	Diamond Walnut Growers Inc.	Stockton
24.	Mildred Rivers	Russell Stover Candy Company	Sacramento
25.	Sheldon Mitchell	Sheldon Mitchell & Associates	Sacramento
26.	Rita Cherry	Bonewitz Chemical	Manteca
27.	Donald William Douglas	Barengo Cellars	Acampo
28.	William P. Boies	Thompson-Digg Company	Sacramento
29.	Lawrence B. Warmack	Office Industrial Furniture	Sacramento
30.	Warren Sax	John Geer Chevrolet	Sacramento
31.	Frank True	Germain's Inc.	Sacramento
32.	David Rost	W. W. Grainger	Sacramento
33.	William R. Grimes	Rice Growers Association of California	West Sacramento

	<u>Name</u>	<u>Company</u>	<u>Location</u>
34.	Robert L. Field	H. S. Crocker Company, Inc.	Sacramento
35.	Norman R. Travis	Western Warehouse Company	Sacramento
36.	James W. Fletters	Fort Sutter Warehouse Company	Sacramento
37.	Boyd Fountain	Solex Company	Dixon
38.	Sam La Monica	Monarch Foods	Sacramento
39.	Downey Clinch	Alfa Hardware Company	Nevada City
40.	James Crow	C & C Auto Wreckers, Inc.	Rancho Cordova
41.	Marsden L. Willmington	Challenge Equipment Corporation	Fresno
42.	William H. Dowling	Wheeling Pacific Company	Woodlake
43.	John Shamshoian	State Warehouse Company	Fresno
44.	Claude J. Sharbough	Beacon Oil Company	Hanford
45.	Donald J. Hellwig	Hellwig Products Company	Visalia
46.	David G. Threadwell	Josten's Incorporated	Porterville
47.	Forrest Barriger	Berven Rug Mills, Inc.	Fresno
48.	A. E. Kamalan	Owl Transfer Company	Fresno
49.	Don Duncan	H. S. Crocker	Fresno
50.	Ron Silva	Hesston Corporation	Fresno
51.	Donald E. Davis	Baltimore Aircoil of California	Madera
52.	Larry Victor	Atlas Scaffold & Equipment Co.	Fresno
53.	William J. Dupont	A-Y Electronics	Fresno
54.	James Charles Ramsey	Ramsey Seed, Incorporated	Manteca
55.	James L. Smith	Poph-Itt Cereal	Stockton
56.	Alfred Herrenschmidt	Formica Corporation	City of Industry
57.	Lloyd James Patterson	Diversey Chemical Company	South Gate
58.	Fidel Verdugo	Senaca Textile	City of Commerce
59.	William Otis Davis	Continental Can Company	South Gate
60.	Joseph Sunshine	American Hospital Supply	Santa Ana
61.	Ralph Jerome Marcus	Zolatone Process Inc.	Los Angeles
62.	Leslie F. Stroud	Big Boy Manufacturing Co.	Bell
63.	Russell R. Dickie	Zinc-Lock Company	City of Commerce
64.	David L. Borunda	Stuart Pharmaceuticals	Pasadena
65.	Gordon D. Strand	Diebold, Incorporated	Vernon
66.	John Zachariah Elder	E. D. Bullard Company	Sausalito
67.	Harry Hareland	Associated Parts	Santa Rosa
68.	Joseph D. Howard	Independent Wholesale Drug Co.	Santa Rosa
69.	Percival Northey	Reliance Enterprises	Santa Rosa
70.	Thomas J. Phillips	William Wrigley J. Co.	San Francisco

	<u>Name</u>	<u>Company</u>	<u>Location</u>
71.	Leslie D. Brown	Mac Pherson Leather Company	San Francisco
72.	Neville F. Hanson	Kellogg Company	San Leandro
73.	Gary Thomas Ferrulli	Senico-Pacific	Oakland
74.	Richard Lee Quigley	Montgomery Ward	Oakland
75.	Reed Berger Tibbetts	Hexcel Corporation	Dublin
76.	Harlan B. Copsey	Crescent Wharf & Warehouse Company	San Francisco

Protestants are certificated to conduct intrastate and interstate operations within the state. Their respective operations are summarized as follows:

1. Associated Freight Lines. Serves almost statewide; 513 units of equipment; 9 terminals; 316 employees; performs no refrigerated service except for the use of ice; 31 customers have been diverted to proprietary operations; and not aware of any competition from applicant.
2. Nielsen Freight Lines. Operates between San Jose and Crescent City; 350 units of equipment; 195 employees; 8 terminals; 45 customers have been diverted to proprietary operations; 1970 tonnage dropped from 87,346 tons in 1969 to 79,944 tons in 1970, but total revenue increased from \$3,505,893 in 1969 to \$3,765,220 in 1970; and has experienced difficulties making pick ups at applicant's warehouses.
3. Western Milk Transport. Refrigerated service from Marysville, on the north, to San Diego, on the south; operates 411 units of equipment with 214 insulated vans equipped with mechanical refrigeration; has 8 terminals; and suffered a loss of \$235,766 in 1970.
4. Lodi Truck Service. Serves from San Rafael, Woodland and Roseville, in the north, to the Los Angeles Basin Territory in the south; operates 304 units of equipment; has 100 employees; 4 terminals; realized a profit of \$18,352 in 1969 and \$12,185 in 1970.
5. Sterling Transit Company. Serves from San Francisco, on the north, and San Diego, on the south; 350 units of equipment (no refrigerated equipment); 7 terminals; overnight service; many customers have gone to proprietary operations; net revenue dropped from \$78,877 for the first quarter of 1970 to \$70,450 for the first quarter of 1971; not presently operating at full capacity.

6. Delta Lines. Serves statewide; operates 1,966 units of equipment; 1,276 employees; 21 terminals; has unused capacity; revenues for 1968 \$19,219,668, for 1969 \$22,213,430, for 1970 \$24,498,396; revenues for CME for the year 1968 were \$12,284,729, for 1969 \$15,660,127, and for 1970 \$19,090,711.
7. Peters Truck Line. Operates from the Bay Area north to the Oregon border; 119 units of equipment, including refrigerated equipment; 84 employees; 5 terminals; overnight service; transported 58 shipments from applicant's warehouses to northern points during March and April 1971.
8. Alltrans Express, California, Inc. Operates statewide; 661 units of equipment; 654 employees; 11 terminals; has unused equipment; operating ratio for the year 1968 was 99.7 percent, 1969 was 103.8 percent and for 1970 it was 107.4 percent.
9. Coast Drayage dba Coast Line. Operates from Santa Rosa and Sacramento, in the north, and Salinas, in the south; 99 units of equipment; 55 employees; 2 terminals; overnight service; has unused equipment; has lost customers as a result of proprietary operations; gross operating revenues in 1969 were \$1,138,376 and \$1,171,586 in 1970.
10. Pozas Bros. Trucking Company. Operates between the San Francisco Territory and Sacramento, on the north, and San Diego, on the south; 211 units of equipment; 85 employees; 3 terminals; commenced as a truckload carrier, now primarily an L.T.L. carrier; total tonnage dropped from 83,609 to 75,211 in 1970.
11. System 99. Operates statewide; 1,029 units of equipment; 800 employees; 17 terminals; overnight service; unused equipment; net revenues dropped from \$180,868 in 1968 to \$22,497 in 1970.
12. Warren Transportation. Operates between Redding and Alturas, on the north, and Lompoc and Bakersfield, on the south; 90 units of equipment; 50 employees; 1 terminal; has unused capacity; has lost business to proprietary operations; net revenue dropped from \$18,036 in 1969 to \$11,031 in 1970.
13. Pacific Motor Trucking. Operates statewide; 2,793 employees in California; 35 terminals; 2,331 units of equipment.

14. Ted Peters Trucking Company. Operates from Chico, on the north, to San Diego, on the south; 126 units of equipment, including 30 refrigerated vans; 82 employees; 4 terminals; operating at 80 percent of capacity.
15. Morris Drayage. Operates from Redding, on the north, to Fresno, on the south, 185 units of equipment, 115 employees; 3 terminals; operating at 80 percent load factor; primarily a truckload operation; net revenue decreased from \$29,973 in 1969 to \$14,446 in 1970.
16. De Boer Truck Line. Operates from Marysville, in the north, to Fresno, in the south; 47 units of equipment; 22 employees; 1 terminal; present operating ratio is 90 percent.

Protestants take the position that they are providing a satisfactory service throughout the state in both intrastate and interstate commerce; that although they are not presently aware of applicant being an active competitor in the proposed extended area they believe that applicant would be more aggressive and therefore more competitive in said area if the application were granted; that as a result of the 1970 strike and recession the existing carriers have experienced severe economic reverses; that the certification of applicant would divert traffic from the existing carriers thereby further aggravating this condition; that the only alternative would be to seek relief in the form of higher rates; and that higher rates would result in certain shippers being diverted to proprietary operations. In the event that the Commission should find any basis for granting applicant an extension of its certificated authority, protestants suggest that it be limited to service performed to or from applicant's warehouses.

The public witnesses produced by protestants testified that they presently use the services of the existing carriers in intrastate and interstate commerce; that they are satisfied with said service and have no need for any additional carrier; and because of dock congestion many wished to limit the number of carriers calling upon them.

A number of said witnesses were unaware of applicant's existing operations. Many were of the opinion that applicant was a new carrier attempting to enter the field for the first time. Several referred to applicant as the "new kid on the block". Many expressed the opinion that applicant's entry upon the competitive scene would have an adverse effect upon the existing carriers by diverting traffic, which they believe would eventually result in higher rates.

Economic Studies

Applicant introduced the testimony of Carl M. Snavely, Jr., an economic consultant with the firm of Snavely, King & Tucker, Inc., located in Washington, D. C., who has engaged in a wide variety of studies in the field of transportation, economics, and distribution. Mr. Snavely introduced the results of a study,^{2/} which was undertaken at the request of applicant for the purpose of determining whether the economic growth of California would be sufficient over the coming decade to require additional motor carrier capacity and investment.

The study attempts to show a correlation between motor carrier indicators (revenues, ton miles), on the one hand, and general economic growth indicators (population, employment, personal income), on the other hand, for the ten-year period from 1960 to 1970. Based upon these factors the study makes projections to the year 1980.

The study also relies upon projections made by the U.S. Census Bureau, the National Planning Association and Wells Fargo Bank.

^{2/} Exhibit 29.

The National Planning Association makes the following projections for the years 1975 through 1980:

	<u>1975</u>	<u>1980</u>
1. Population	22,496,000	25,420,000
2. Civilian Employment	8,944,000	10,149,000
3. Mfg. Employment	1,945,000	2,149,000
4. Personal Income	109.2 Billions	140.1 Billions
5. Goods Consumption	48.5 Billions	61.6 Billions

The Wells Fargo Bank projections are as follows:

	<u>Population</u>	<u>Employment</u>	<u>Personal Income</u>
1960	15,863,000	5,933,000	50.6 Billions
1969	19,443,000	7,994,000	79.4 Billions
1975	21,370,000	9,060,000	103.8 Billions
1980	23,000,000	9,990,000	128.6 Billions

Because of the close correlation between the performance of motor carriers and the general economy, Mr. Snavelly expressed the opinion that the motor carrier industry in California can expect a continuation of its strong growth throughout the next ten years. He stated that the most conservative estimate indicates that the motor carriers serving the proposed area can look forward to an increase of at least 65 percent in ton-miles and 50 percent in constant revenues by 1980 as against their 1969 expenses. He was of the opinion that the protestants as a group will experience an increase of between 65 and 90 percent in their total revenue in 1980 over 1969. A growth of this magnitude, he concluded, will require maintenance of existing motor carrier capacity and should require additional capacity and capital resources.

By Exhibit 182 applicant attempted to show that the protesting carriers have experienced a substantial growth in operations between 1960 and 1970 notwithstanding the fact that a large number of carriers were certificated during the period from 1960 to 1965. According to Exhibit 182 the operations of protestant increased as follows:

	<u>1960-1962</u>	<u>1963-1964</u>	<u>1967-1970</u>
No. Employees	5,874	6,950	8,245
No. Vehicles	8,099	9,298	10,615
Ton Miles	940,301,000	1,257,045,000	1,571,233,000
Surplus	6,222,000	14,031,000	24,900,000
Net Revenue	2,860,000	4,526,000	2,849,000
Gross Revenue	75,903,000	104,278,000	154,096,000

Protestants introduced the testimony of Mr. Robert F. Lautze, a member of the accounting firm of Wolf and Company, who prepared Exhibits Nos. 175 and 187. Exhibit 175 was prepared for the purpose of showing the financial conditions of the motor carriers in California over the past 10 years. The exhibit was also prepared to show that the registration of for-hire carriers increased from 44,011 to 57,668 during the years 1965 to 1970, whereas the registration of proprietary vehicles increased from 50,500 to 80,883 during the same period.

Exhibit 187 is comparable to Exhibit 186, which was prepared and introduced by applicant. Each considered the gross revenue, net operating revenue and tons transported for 19 of the protesting carriers for the first and second quarters of the years 1968 through 1971. The revenue figures as used by Mr. Lautze are based upon constant dollar averages. The comparison in thousands is as follows:

	<u>1968</u>		<u>1969</u>	
	(A)	(P)	(A)	(P)
Gross Revenue	\$65,092	\$70,871	\$75,752	\$79,169
Net Revenue	\$ 1,566	\$ 1,429	\$ 774	\$ 728
Tons Transported	2,745	2,827	3,183	3,263

	<u>1970</u>		<u>1971</u>	
	(A)	(P)	(A)	(P)
Gross Revenue	\$73,823	\$69,254	\$83,417	\$63,954
Net Revenue	\$ (239)	\$ (10)	\$ 2,635	\$ 764
Tons Transported	3,136	3,193	3,038	3,128

(A) Applicant, Exhibit 186.

(P) Protestants, Exhibit 187.

	<u>1960-1962</u>		<u>1963-1964</u>		<u>1967-1970</u>	
	(A)	(P)	(A)	(P)	(A)	(P)
No. Employees	5,874	7,232	6,950	8,578	8,245	9,313
No. Vehicles	8,099	9,663	9,298	11,116	10,615	12,126
Gross Revenues (000)	75,903	89,921	104,278	108,295	154,096	116,755

(A) Applicant, Exhibit 182.

(P) Protestants, Exhibit 187.

Applicant argues that the record clearly shows that protestants have enjoyed a ten year period of growth and can expect continued growth during the next decade. The slump of 1970 it attributes to a labor discord and a recession. Protestants, however, argue that there has been a slowdown in volume and that the recession is still in progress. They contend that the economic study presented by applicant leaves much to be desired in that it fails to consider present traffic flows and considers a projected ten-year period without giving consideration to intervening periods. Protestants do not believe that applicant's economic study provides the Commission with all of the information necessary to reach an enlightened policy decision.

Past Permitted Operations

Prior to 1948 the sole test in determining whether a certificate authorizing operations as a highway common carrier should be issued was public convenience and necessity as it related to adequacy of existing service within a given area. Following World War II, the Commission found that a large number of permitted carriers had developed substantial operations within the state and in an attempt to bring these carriers under its regulatory control the Commission announced its so-called "liberal" policy of certification.

(Investigation into the operations of all carriers of property, 48 C.P.U.C. 587 (1949).) In announcing its "liberal" policy the Commission held:

1. The Commission should be liberal in granting certificates of public convenience and necessity.

2. Contract and radial permittees are placed on notice that if they have reason to believe their operations come within the provisions of the Public Utilities Act, they should file applications for certificates.
3. The Commission in granting certificates of public convenience and necessity will follow a policy of strictly limiting such certificates to the scope of operations justified by the showing made, giving consideration to such matters as types and quantities of commodities, and the areas to be served.

By Decision No. 50448, 53 C.P.U.C. 366 (Investigation into operations of all carriers of property, 1954), the Commission terminated the "liberal" policy and for a period of 90 days after the effective date of the order invited carriers to file applications for certification in areas where their operations might exceed the scope of their permitted authority.

Again in 1960 the Commission followed a liberal program of certificating permitted operations of a questionable legal nature. A number of the protestants were either originally certificated or were granted extensions of their certificated authority based upon a showing of past permitted operations. Since 1965, either because the carriers in the field had satisfied their need for certification, or because of the financial cost in meeting the vigorous protests of the existing carriers, very few applications for certificates were filed with the Commission.

Protestants are concerned with the possibility that the Commission will be swamped with applications for certificates if this proceeding is used as a vehicle for announcing another "liberal" policy based upon past permitted operations. Applicant, on the other hand, is not resting its showing exclusively upon past operations, but also relies upon the public witness testimony supporting the application.

Discussion

The record discloses that applicant has grown over the years from a small warehouse and drayage operation in San Francisco to a large Bay Area warehouse operation with a statewide distribution system, part of which is performed pursuant to certificated authority and part pursuant to permitted authority. Although the transportation service is an integral part of applicant's warehouse service, a material portion relates to the transportation of shipments with neither point of origin nor point of destination at one of applicant's warehouses. To a large extent these are truckload shipments with split deliveries, which result from combined warehouse movements and the distribution of non-warehouse pool car movements; however, approximately 30 percent of applicant's total shipments are 500 pounds or less. Any attempt to restrict applicant's operations to warehouse movements or by weight would seriously alter the nature of the service.

Protestants argue that if applicant is granted the authority requested it will become a threat to the existing carriers; that its entry into the field will divert traffic from the existing certificated carriers and ultimately result in higher rates. But the record demonstrates that applicant has been operating in the proposed area as a permitted carrier for an extended period of time and notwithstanding its presence in the field, at the time of hearing neither protestants nor the public witnesses who testified in their behalf considered applicant a competitive carrier. Apparently the diversion which protestants fear has already taken place and if protestants were so unaware of its effect one must assume that the diversion was from another source, i.e., from other permitted carriers.

It has long been established that the public is best served in the field of transportation by competition subject to regulation. (Santa Clara Valley Auto Lines, 14 C.R.C. 112 (1917).) Therefore, service is the prime factor considered not only by the shipping public, but also by the regulatory body. In California the shipping public may choose not only from certificated carriers, but also from

a large number of permitted carriers.^{3/} As a consequence traffic is constantly being diverted from one carrier to another regardless of the type of operating authority held. A shipper will usually select a carrier best suited to meet his transportation needs and requirements. Because the needs and requirements of the shipping public vary widely there is a corresponding need for a wide variety of carriers. It is untenable, therefore, to take the position that the granting or denial of this application will per se materially change the competitive picture one way or another.

In the instant proceeding applicant introduced the testimony of many witnesses who are using the transportation services of applicant for various reasons: (1) the combined warehouse and transportation services are an essential part of the company's way of doing business; (2) refrigerated service; (3) split delivery shipments with corresponding lower rates; (4) desire to use one carrier for both intrastate and interstate shipments; (5) willingness to accept unmarked shipments having split deliveries; (6) willingness to pick up documentation required on foreign shipments; (7) scheduled pickups and deliveries; and (8) reliable overnight service. By the same token protestants introduced as many public witnesses who testified that the existing services of protestants adequately meet all of their particular shipping needs and requirements.

The record clearly demonstrates that applicant has established an existing need for a transportation service that is closely, but not exclusively, related to its warehouse operations. While it is true that protestants produced the testimony of a number of public witnesses, who attested to the adequacy of protestants' services, this does not overcome the need established by applicant's witnesses whose business needs and requirements depend to a great extent upon a combined warehouse and transportation service. The protestants, neither singularly nor collectively, provide a service to meet this need.

^{3/} As of December 31, 1971, Commission records indicate that there are 669 certificated carriers and 17,652 permitted carriers authorized to operate in the State of California.

Although applicant's transportation service is primarily warehouse oriented, approximately 20 percent of its total shipments are non-warehouse movements. To restrict applicant to warehouse shipments would not truly reflect the integrated nature of the service that it is presently providing.

After consideration the Commission finds that:

1. Applicant, as a certificated carrier and through its subsidiary, TBFF, has been conducting extensive operations throughout the state pursuant to certificates and permits duly issued by the Commission.
2. Because of the continual growth of its operations applicant seeks to extend its certificated authority to the area that it now serves pursuant to permits.
3. Applicant owns and operates warehouses in the San Francisco Bay Area and its transportation service is closely, but not exclusively, related to its warehouse operations. Approximately 20 percent of applicant's total shipments are non-warehouse movements.
4. Applicant also conducts extensive pool car operations, a large part of which is neither consigned to nor distributed from applicant's warehouses.
5. A substantial amount of applicant's traffic consists of truckload shipments with split deliveries; however, more than 30 percent of applicant's shipments are 500 pounds or less.
6. Applicant is providing a combined warehouse and transportation service for many of its customers. Applicant in effect acts as the traffic and shipping department for such customers. This is a service that protestants, which are engaged solely in transportation, do not perform.
7. A number of customers presently using applicant's permitted service would like to have applicant pick up their interstate shipments at the same time as it picks up their intrastate shipments.

8. Protestants are providing a satisfactory service and are meeting the needs and requirements of that portion of the shipping public which they serve.

9. Protestants have enjoyed a healthy economic growth and development in the past 10 years. The certification of a number of carriers during the years 1960 to 1964 had no apparent effect upon their growth during this period. The year 1970 showed a material decline in carrier operations which can be attributed to a labor dispute and a recession. The first half of 1971 shows an improvement.

10. Applicant is not a new carrier entering the field for the first time. It represents an established operation and there is no reason to assume that upon certification applicant would be anymore competitive than it has been as a permitted carrier.

11. Except for conjecture the record fails to establish that there is a correlation between the number of certificated carriers, the level of rates and the number of proprietary carriers.

12. Applicant possesses the necessary experience, facilities and financial ability to conduct the proposed operations.

13. Public convenience and necessity require applicant's service as a highway common carrier for the transportation of shipments moving via intrastate, interstate and foreign commerce between the points and places as hereinafter set forth in the ensuing order.

The Commission concludes that the application should be granted which will be accomplished by restating applicant's operating authority in the form of a new certificate.

Thompson Bros., Inc., a corporation, is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Thompson Bros., Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A, B, C and D attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- b. Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend its tariff on file in the Commission's office to reflect the authority granted herein.
- c. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff 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-Series.

- e. Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.
- f. Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Thompson Bros., Inc. and presently possessed by it, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 28th day of MARCH, 1972.

I will file a
concurring opinion
[Signature]

[Signature] Chairman
[Signature]
[Signature]
[Signature] Commissioners

Thompson Bros., Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier, as defined in Section 213 of the Public Utilities Code for the transportation of general commodities:

BETWEEN the following points, serving all intermediate points on the said routes and off-routes within 15 miles thereof; subject to the restriction that no shipment would be transported having both origin and destination south of the northern boundary of San Luis Obispo, Kern and San Bernardino Counties except where such shipment is a part of a split pickup or delivery shipment, one or more components of which, has origin or destination north of said line, except as specified below:

1. Redding and Los Angeles on U. S. Highway 99.
2. Red Bluff and San Ysidro on Interstate Highway 5.
3. Williams and Grass Valley on State Highway 20.
4. Grass Valley and Placerville on State Highway 49.
5. Junction of U. S. Highway 99 and State Highway 70 south of Paradise and U. S. Highway 99 and State Highway 70 near Trowbridge.
6. Marysville and Roseville on State Highway 65.
7. Vacaville and Dunnigan on Interstate Highway 505.
8. San Francisco and Auburn on Interstate Highway 80.
9. San Francisco and Placerville on U. S. Highway 50.
10. To and from and between all points and places located in San Francisco Territory as described in Appendix B attached hereto, and points located within 15 miles of the boundaries of said Territory.
11. San Rafael and San Jose on State Highway 17.
12. Vallejo and San Jose on Interstate Highway 680.
13. Oakland and Pacheco on State Highway 24.
14. Pinole and Stockton on State Highway 4.

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15. Lodi and Santa Rosa on State Highway 12.
16. Antioch and Sacramento on State Highway 160.
17. Calistoga and Vallejo on State Highway 29.
18. Ignacio and Vallejo on State Highway 37.
19. San Francisco and Carmel on State Highway 1.
20. San Francisco and Salinas on U.S. Highway 101.
21. Junction State Highway 156 and U.S. Highway 101 near San Juan Batista and junction of State Highway 156 and State Highway 152 near San Felipe.
22. Gilroy and junction State Highway 152 and U.S. Highway 99 near Chowchilla on State Highway 152.
23. Junction State Highway 33 and U.S. Highway 50 near Banta and Maricopa on State Highway 33.
24. Coalinga and Exeter on State Highway 198.
25. Fresno and junction State Highway 63 and State Highway 180 on State Highway 180.
26. Junction State Highway 63 and State Highway 180 and Visalia on State Highway 63.
27. Fresno and Kettleman City on State Highway 41.
28. Selma and Bakersfield on State Highway 43.
29. Exeter and Rosedale on State Highway 65.
30. To and from and between all points and places located in Los Angeles Basin Territory as described in Appendix C attached hereto, and points located within 15 miles of the boundaries of said Territory.
31. Pomona and Murietta on State Highway 71.

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32. San Bernardino and San Diego on U.S. Highway 395.
33. Oceanside and Escondido on State Highway 78.
34. To and from and between all points and places located in San Diego Territory as described in Appendix D attached hereto, and points located within 15 miles of the boundaries of said Territory.
35. Traversing on and over public highways, streets and roads between all points above authorized for operating convenience.
36. Between Salinas and Los Angeles over U.S. Highway 101, serving no intermediate points, for operating convenience only.
37. Between Paso Robles and Fomosa on State Highway 46, serving no intermediate points, for operating convenience only.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item 10-C of Minimum Rate Tariff 4-A.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles.

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5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Cement.
8. Logs.
9. Commodities of unusual or extraordinary value.
10. Cleaning, scouring and washing compounds, textile softeners, laundry bleach, vegetable oil shortening, cooking oil, peanut butter, and prepared edible flour when transported in pool shipments in truck-loads of over 20,000 pounds from Sacramento to retail stores.
11. Salt when transported between Newark and Sacramento.
12. Sugar when transported between Tracy and Sacramento or from Crockett to points within 350 miles of Crockett.
13. Trisodium Phosphate when transported from Richmond to Sacramento in shipments of 40,000 pounds or more.
14. Empty containers of not less than sixty cubic feet capacity each when transported for returning loads of articles or commodities in paragraphs 11, 12 or 13 above.
15. Commodities, the transportation of which, because of their size or weight, requires the use of special equipment; or commodities, the transportation of which, because of their size or weight, require special permits from State, County or City governmental agencies to transport said commodities over the public highways.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 79860, Application No. 52032.

SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point one mile west of U.S. Highway 101; southerly along an imaginary line one mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 79860, Application No. 52032.

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U. S. Highway No. 99; northwesterly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX C)

Issued by California Public Utilities Commission.

Decision No. 79860, Application No. 52032.

SAN DIEGO TERRITORY includes that area embraced by the following boundary: Between points in California within an area bounded by a line beginning at the northerly junction of U.S. Highways 101-E and 101-W (4 miles north of La Jolla); thence easterly to Miramar on U.S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (State Highway 67); thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary line, west to the Pacific Ocean and north along the coast to point of beginning.

(END OF APPENDIX D)

Issued by California Public Utilities Commission.

Decision No. 79860, Application No. 52032.

D. W. HOLMES, COMMISSIONER, Concurring:

While I concur in the majority opinion, I wish to emphasize that which was not stressed by the majority. This is a landmark case. It is a departure from the latest Commission practice, if not policy. A brief historical review may be of assistance in placing this decision in perspective.

In the late 1940s the Commission held an extensive investigation and issued a series of decisions in 1948 and 1949 setting forth a declaration of policy and recommending to the Legislature extensive revisions of the Code with respect to the regulation of highway carriers. In this declaration of policy the Commission said, "The Commission should be liberal in granting certificates of public convenience and necessity".

This whole matter was again reviewed in 1953 and 1954. As a result of this investigation, in a decision in 1954, the Commission said:

"The fact is that these two statutes (Highway Carriers Act and the Public Utilities Act) in their practical operation are mutually antagonistic when an attempt is made to harmonize them. Based upon years of experience in administering these two Acts, we have no hesitancy in saying that from a practical standpoint a given operation by a permitted carrier may be said to be that of a highway common carrier under the

Public Utilities Act, unlawfully operating without a certificate and at the same time that of a radial highway common carrier, or even a contract carrier, under the Highway Carriers Act. However, from a legal standpoint, a given operation may not be two different things at one and the same time."

The Commission went on to say that its declaration of policy for liberal certificates should have an expiration date and one was declared. However, in the interim the high resolves of the 1954 decision were not accomplished.

Continuously, following the decision, the Commission liberally issued certificates based in many instances solely on the mere preference of certain shippers for a particular carrier. This situation prevailed until the mid 1960s when the filing of applications for certificates dried up. It would appear that the reason therefor was that all carriers who desired to be or were required to be highway common carriers had been granted authority. Since that time, the first application of consequence to be vigorously protested is that of Thompson Bros.

While the granting of this application might seem to indicate that the Commission has once again decided in favor of a liberal certification policy, this is not the case. This decision does stand for the proposition that we will entertain applications for highway common carrier certificates; but, in

addition, the evidentiary showing on the issue of public convenience and necessity must be, as it is in this case, clear and convincing. Thompson Bros. has demonstrated that the public convenience and necessity requires its certification by the number of shippers supporting its application, and especially by the evidence of the peculiar, innovative and extensive services it offers to its customers.

The issuance of highway common carrier certificates must be highly restrictive in order to maintain a viable, healthy transportation system for the people of this State. It is my opinion that the most glaring regulatory problem facing this Commission is not the certification of highway common carriers; rather it is the permitting of radial carriers. The ridiculous ease with which radial carrier permits are obtained is the greatest detriment to the existing transportation industry in California. The applicant for such a permit need only show financial responsibility and adequate insurance and a permit must be granted. Thereafter by conducting business on an expanding basis, he practically becomes a certificated highway common carrier, with the exception of interstate interlining. Although this can be remedied only by legislative action, I

feel that it is incumbent upon this Commission to investigate this phase of our regulatory duties and to make policy recommendations to the Legislature.


Commissioner

Dated at San Francisco, California,
March 28, 1972.