

Decision No. 14818

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of A. W. PURDY for a certificate)
of public convenience and neces-)
sity to operate a personal mes-)
senger auto service between Los)
Angeles, La Habra, Brea and Ful-)
lerton.)

APPLICATION NO. 9664

Richard T. Eddy, for Applicant.
Herbert W. Kidd and W. O. Schell, for
Motor Transit Company, Protestant.
Warren E. Libby, for Pickwick Stages, E.D.,
and Triangle-Orange County Express,
Protestants.

ORIGINAL

BY THE COMMISSION:

OPINION ON REHEARING

In this proceeding applicant seeks a certificate of public convenience and necessity to operate a "personal messenger auto service" between Los Angeles and La Habra, Brea and Fullerton. By Decision No. 13628 of this Commission the application herein was denied. Whereupon applicant filed his petition for rehearing, based upon several grounds, which rehearing was granted by this Commission and a further hearing ordered.

Rehearing was conducted by Examiner Williams at Fullerton, at which time the matter was duly submitted and now is ready for decision.

Protestants joined in objection to the introduction of any additional testimony in support of the necessity and con-

venience of the service, on the ground that applicant had had his day in court and had failed to establish necessity or convenience. This objection was not sustained and such testimony was admitted, for the reason that the petition for rehearing was granted as a whole and was partly based upon the inability of applicant to procure or present certain witnesses at the previous hearing.

It was stipulated by applicant at the beginning that protestants Motor Transit Company and Pickwick Stages, N. D., (formerly Crown Stages) are operating efficiently insofar as they hold themselves out to carry express matter under restrictions as to weight and vehicles; also, that neither receives or delivers express at any point except at its depots.

Applicant presented E. E. Swett, books and stationery; A. E. Sitten, automobile dealer; Louis E. Plummer, principal of the Fullerton High School; J. L. Abbott, paints, wall paper and art goods; W. A. Moore, gasoline service station; E. W. Egan, hardware; F. W. Taylor, Jr., electrical supplies; A. E. Stuelke, music house and radios; A. C. McCoy, automobile tires; and Otto L. Evans, confectionery, all of Fullerton, and D. D. Clemmer of Brea, as additional witnesses in behalf of public convenience and necessity.

The substance of their testimony was that they, as business men, require some agency near at hand that can be sent with express matter to Los Angeles and that can buy and transport articles which are needed in emergencies. The general trend of the testimony showed that large stocks are not carried by the merchants at Fullerton because of the nearness of the main market at Los Angeles, and that only a service such as applicant proposes,

and which was discussed fully in Decision No. 13628, will serve their purpose.

In addition to the witnesses examined orally, applicant produced many letters from other business houses supporting his offer of service. Witnesses testified that the existing service by protestant carriers, Motor Transit Company and Pickwick Stages, offered no pick-up service in Los Angeles and no delivery service in Fullerton, and that prompt delivery is not expected of them for these reasons. Witnesses also testified that the service of protestant Triangle-Orange County Express is too slow for emergency needs, and that the "buy-out" service of this carrier is not useful because of delay incident to delivery. A number of instances of delay, running from one to four days, were cited by these witnesses.

Other reasons urged in support of applicant's proposed service were that it would assure purchasers against substitution by wholesalers and would enlarge the buying range by enabling applicant to make the purchases ordered at any one of several wholesale houses, whereas now the order must be directed to a specific house, with incidental telephone expense, which establishment may be unable to fill the order on presentation. One witness, Mr. Sitton, testified that he is a member of a "Buyers' Service" in Los Angeles, which service he patronized nineteen times in July and fifteen times in August. He testified that the cost of a specific article, which is now plus transportation to the "Buyers' Service" office, plus telephone and delivery charges, would be reduced to the cost plus delivery charge if applicant's service were established.

Protestants introduced one shipper, F. Schlendering, dry goods merchant of Fullerton, whose testimony was that by tel-

ophoning each morning and ordering shipments delivered to either of the three protestants, he had prompt delivery shortly after noon. Witnesses for applicant admitted that in some instances they had received fairly prompt service from protestant carriers.

Since the promulgation of Decision No. 13628 herein, protestant Motor Transit Company has been forbidden to transport express matter by special car, as it had been doing at the time of the original hearing herein, and, in addition, protestant has been limited to a weight of 40 pounds for a single package, and to carriage only upon its passenger stages. The removal of this feature of service and the limitation of weight materially alters the ability of this protestant to give the adequate service for rapid transportation that existed at the time of the original hearing. While it is true that this protestant and Pickwick Stages, N. D., each gives half-hourly service, the absence of pick-up and delivery features reduces the adequacy of such service as compared with the demands of Fullerton business men.

Protestant Triangle-Orange County Express, according to the testimony of S. B. Cowan, its proprietor, maintains a pick-up in Los Angeles and delivery at Fullerton, and operates four services between Los Angeles and Fullerton daily on schedule, reaching Fullerton at 6:00, 9:30 and 11:30 a. m. and 2:00 p. m. In addition there is a special vehicle delivering films and other package matter to Orange County points, which leaves Los Angeles at 2:00 o'clock and arrives at Fullerton at 4:30 p.m. Mr. Cowan testified that the "buy-out" service maintained by him handles 125 packages daily for Fullerton and other points, at a minimum charge of 35¢ per package (same as proposed by applicant) and with an additional charge of 10¢ for C. O. D. packages. An

exhibit filed by this protestant showed that during the months of August and September, 1924, the Triangle-Orange County Express picked up 544 packages in Los Angeles for delivery at Fullerton, an average of approximately 9 per day, delivering them on the afternoon of the same day as received.

Ordinarily the service maintained by protestant carriers would be deemed adequate for communities similar to the community involved herein, but the record discloses testimony of a score or more of responsible Fullerton business men who find a need for a service which none of the protestants give or offer to give. Applicant proposes to receive orders from Fullerton business houses, as well as those at Brea and La Habra, either to convey property to Los Angeles for delivery, or to procure or purchase articles in Los Angeles for transportation to Fullerton, La Habra and Brea, and to do no other business.

In addition to the testimony and letters placed in evidence, applicant's proposed service was urged by resolution of the La Habra Chamber of Commerce, the Fullerton Chamber of Commerce, the Brea Chamber of Commerce, and by the Board of Trustees of the City of Fullerton.

The testimony of the need of applicant's service as proposed is now so convincing that no reason exists for denying the application.

Applicant, however, should be restricted to the purpose for which he asks a certificate; that is, the messenger service he intends to link with the transportation feature. The necessity shown is not one for an additional general carrier, but for a special service for the business interests of Fullerton, La Habra

and Brea, and there appears herein competent and affirmative testimony of witnesses from each place as to their need of this service.

Applicant has stipulated that he will accept no package weighing in excess of two hundred (200) pounds, and that he will transport no property between Los Angeles and Fullerton except such property as may be ordered by Fullerton consignees, or as is delivered to him by Shreeves Parcel Delivery Service in Los Angeles, the terminal of which service will also be the terminal of applicant. Applicant also agrees to maintain a pick-up and delivery zone in Los Angeles covering practically all the business area of the city.

In view of the evidence herein, we are of the opinion, and hereby find as a fact, that public convenience and necessity require the establishment of the service proposed by applicant, with the limitations and restrictions set forth in the following order, and that the order heretofore made in Decision No. 13628 should be cancelled and annulled.

ORDER ON PETITION FOR REHEARING

A public hearing having been held in the above entitled matter, evidence having been received, the matter having been duly submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by A. W. Purdy, applicant herein, of an automotive truck service between Los Angeles and Fullerton, Brea and La Habra, over and along the following route:

Over Whittier Boulevard via Montebello
between termini; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

- I. Applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted, stipulating that transportation under said certificate shall be limited to through and complete delivery between consignors and consignees only, from or to their places of business or domiciles, and that applicant shall not establish a depot, station or agency for the receipt or deposit of consignments at any point herein authorized, and that no consignment shall be transported weighing in excess of two hundred (200) pounds.
- II. Applicant shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof, and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.
- III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- IV. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 20th day of April 1925.

Chas. J. Leary
George D. Squires
James J. Scott
Commissioners.