

Decision No. 20003.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application
of UNITED PARCEL SERVICE OF LOS
ANGELES, INC., a corporation, for
a certificate of public conven-
ience and necessity extending the
territory in which it is permitted
to operate.

ORIGINAL

Application No. 13108.

Devlin & Brookman, by Douglas Brookman, for Applicant.

Warren E. Libby, for Boulevard Express, Protestant.

H. J. Bischoff, for Coast Truck Line,
Motor Service Express,
W. and S. Truck Company,
L. A. and Newport Freight Line,
Tolson Transportation Company, and
Pacific Motor Express,
Protestants.

Hugh Gordon, for L. A. and Oxnard Daily Express,
Ojai-Ventura-Los Angeles Express,
L. A. and Santa Barbara Express,
Rex Transfer Company,
Triangle Express, and
Belt Line Express,
Protestants.

T. A. Woods, for American Railway Express Company,
Protestant.

BY THE COMMISSION:

OPINION

The United Parcel Service of Los Angeles, Inc., a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the extension of its present automobile parcel service to the following territory:

District 1. Extension of territory beyond Upland along the Foothill Boulevard through Cucamonga, Rialto, San Bernardino, Redlands, also beyond Ontario along the Valley Boule-

ward through Colton to Redlands, also beyond Ontario through Corona, Arlington, Riverside to Redlands;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

District 2. Extension of territory beyond Tustin through San Juan Capistrano, Oceanside, La Jolla, San Diego, Coronado, National City and Chula Vista, also beyond Long Beach through Huntington Beach, Newport Beach, Laguna Beach to San Juan Capistrano;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

District 3. Extension of territory from Los Angeles through Calabasas, Ventura, Carpinteria to Santa Barbara, together with extension to Oxnard, Santa Paula and Fillmore;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

Public hearings on this application were conducted before Examiner Satterwhite at Los Angeles, Santa Barbara, San Bernardino and San Diego and after the filing of briefs the matter was submitted and is now ready for decision.

Applicant proposes to put into effect throughout the proposed extended territory the same rates, rules and regulations as are at present in effect in the territory now served by applicant.

Applicant proposes to operate into the proposed extended territory the same kind of equipment as it now has in operation, with additions thereto of such other equipment as may

be found suitable and necessary for the expeditious handling of packages in the proposed territorial extensions.

Applicant proposes a delivery every day of packages and parcels picked up the previous day, and will install such additional and more frequent pickup and delivery service in any part of or all of the proposed extended territory as business demands may warrant.

Los Angeles and Santa Barbara Motor Express, Los Angeles and Oxnard Daily Express, the Ojai-Ventura-Los Angeles Express, Rex Transfer Company, Triangle, Orange County and Santa Ana Express, Belt-Line Express, Coast Truck Line, Motor Service Express Los Angeles and Newport Freight Line, Tolson Transportation Company, Pacific Motor Express and Boulevard Express, Inc. protested the granting of said application.

The hearings on the proposed extensions of applicant consumed a period of twenty-nine days. Numerous witnesses were called and considerable documentary evidence was introduced by all interested parties.

The claims and contentions of both the applicant and the different groups of protesting truck lines were presented so earnestly and vigorously throughout the entire hearing of this matter that the Commission deems it advisable to analyze and review, to some reasonable extent at least, the material and pertinent facts and important and particular issues raised and developed by the respective parties to this proceeding.

Applicant's proposal for its extended parcel service into the three districts above described is based upon the following grounds:

First: That the service of applicant is used by many large department and other stores in the City of Los Angeles in lieu of said stores having their own package and parcel delivery systems, applicant in fact being practically the delivery department of such stores.

Second: That applicant makes pick-ups of packages and parcels at regular hours, and the pick-up truck calling at the place of business of each shipper takes all packages and parcels for delivery to any and all points within the territory in which applicant is permitted to operate, a service of peculiar importance, value and advantage to the shipper.

Third: That applicant operates clean and well painted equipment, with uniformed drivers carefully trained to render the same individual and personal service to the shippers and customers as though the drivers were directly employed by the shipper itself.

Fourth: That applicant's service affords to its customers one unified delivery system within the entire territory in which applicant is permitted to operate, thus freeing its patrons from the necessity of employing numerous auto truck lines, each going to different parts of the territory involved, thereby avoiding confusion in operation and congestion of equipment, inasmuch as the patron is enabled to give all of its package and parcel deliveries to one company, and to deal with one company alone.

Fifth: That the accounting system of the customers of applicant is simplified in that said customers are required to keep only one set of accounts, instead of having to have separate accounts with numerous transportation companies; further, that the matter of the collection of C.O.D.'s is greatly simplified by

having all such collections handled through one company.

Sixth: That applicant's service is essentially territorial in character, in that applicant in delivering packages and parcels for its patrons covers all points within a defined territory rather than operating solely between fixed termini on one specific line of travel.

Seventh: That applicant has a uniform rate schedule which is applicable throughout the general territory within which applicant is permitted to operate. This uniform rate schedule, which is peculiar to a service such as that conducted by applicant, avoids trouble and confusion in determining the rate on any particular shipment.

Eighth: That with minor exceptions applicant's service from Los Angeles is a one way service only, delivering packages and parcels from merchants in the City of Los Angeles to their patrons, both within the City of Los Angeles and to all points within the outlying districts in which applicant is permitted to operate.

Applicant contends that because of the foregoing distinctive features of its service it is performing for its customers in the City of Los Angeles a package and parcel delivery service which no other carrier, either rail or truck, is performing or can perform.

The protesting truck lines filed no written protest but the record shows that they rely generally upon the following grounds in opposition to the proposed extended service of applicant, viz:

First: That the public convenience and necessity does not require the proposed extended service of applicant.

Second: That the present transportation needs in the three districts proposed to be served are entirely fulfilled by the existing transportation facilities.

Third: That the service rendered by existing auto truck stage and rail facilities are fully adequate.

Fourth: That the existing rates of these transportation facilities are fair and reasonable.

Fifth: That the proposed parcel service into these three new districts is a proposed extension and expansion beyond the normal sphere of operation of a parcel delivery service.

Sixth: That the proposed extensions of applicant are essentially not a parcel delivery operation, but in reality a main line transportation service.

This Commission has heretofore in a carefully considered opinion in its Decision No. 16425 in Application No. 11122 as decided April 7, 1926, definitely declared and held that the parcel service of applicant possesses a peculiar and distinctive character and is essentially different from the transportation service of motor stage lines and regular freight truck lines operating primarily between fixed termini, and over regular routes. In view of the earnest contention of the protesting truck lines in this proceeding that the applicant loses or does not possess these peculiar and distinctive characteristics when it proposes to serve its patrons and the general public beyond its present authorized territory we deem it necessary to review and analyze the territory and routes involved, as well as the essential and distinctive characteristics of the transportation service as rendered by the protesting truck lines on August 14,

1926 when the instant application was filed, as well as the existing and proposed service of applicant.

The present authorized operations of applicant embrace a territorial area of over two thousand square miles radiating out in several directions from the City of Los Angeles, throughout the entire metropolitan district and beyond this metropolitan area to innumerable places, towns and communities to distances varying from twenty to forty miles from the business center of Los Angeles. The record discloses that the growth and development of the parcel and package business of applicant has been very rapid during the last several years since its operations first came under the jurisdiction of the Railroad Commission by virtue of certificates granted under Decision No. 13429 in Application No. 9934 and Decision No. 16425 in Application No. 11122. In 1925 over two million parcels were handled and transported by this parcel delivery company. Its regular patrons consist in excess of four hundred customers in the City of Los Angeles including both wholesale and retail business houses or firms of every kind, character and description.

The territory involved is comprehensively shown by identical maps introduced as exhibits in this proceeding, both by applicant and protestants. A study of these maps shows that the territorial limits of Los Angeles extend north and east to the adjacent cities of Burbank, Glendale, Pasadena, South Pasadena and Alhambra; northwesterly to Calabasas, Chatsworth and other points beyond San Fernando, the entire San Fernando Valley being included as a part of the City. To the southwest the city limits extend to the Pacific Ocean and include practically all of the territory between the main district and the west coast beaches, a distance of approximately eighteen miles, except the

restricted territory included by a number of smaller cities, such as Beverly Hills, Santa Monica, Sawtelle and Culver City, the boundaries of which are contiguous with those of Los Angeles. To the south and east, the city limits extend a distance of from six to twelve miles from the main business section, not including the so called "shoestring" section which extends a distance of twenty miles and includes San Pedro and Wilmington at the harbor.

Los Angeles is surrounded by a large number of cities and communities closely built up in residential and business sections immediately adjacent to and contiguous with the City of Los Angeles. Taken all together these adjacent cities, with Los Angeles, constitute a continuous metropolitan area. For a distance of approximately twenty miles in all directions from the business center, there are no wide stretches of unoccupied territory or any other visible evidence of the line of demarkation between the City of Los Angeles and numerous small cities and suburban communities. This is the territory commonly described as the metropolitan area.

Outside of the metropolitan area and particularly to the east and southeast there are also a large number of smaller cities and communities of varying sizes with their exterior boundaries either contiguous or separated by short stretches of rural territory. To the east along the Foothill and Valley Boulevards there are the cities of Pasadena, South Pasadena, Alhambra, San Gabriel, San Marino, Sierra Madre, Arcadia, Monrovia, Duarte, Azusa, Glendora, Claremont, Upland, El Monte, Baldwin Park, Covina, Puente, Pomona, Chino and Ontario. These cities are not more than three to five miles apart. In many instances their boundaries coincide. The same condition is true

to the southeast extending as far as Santa Ana, Orange and Anaheim and including these and other communities in Orange County as well as the intervening cities of Monterey Park, Montebello, Whittier, Southgate, Lynwood and Compton. This is the territory which is covered by the authorized service of applicant. Beyond the metropolitan area the territory now served by applicant embraces numerous cities and communities which are tributary to Los Angeles and all entirely connected by improved roads which afford rapid highway transportation. There are no natural barriers of any kind such as mountains or rivers, separating this area served by applicant. It is estimated that the population of this extensive territory is far in excess of one million people.

The territory proposed to be served by applicant is divided into three districts. District No. 1 embraces San Bernardino, Riverside and Redlands which are each commercial and economic centers distant fifty, sixty and seventy miles respectively from Los Angeles. Between Ontario which is now served by applicant, and San Bernardino and Riverside, is a wide level valley, sparsely populated, devoted largely to vineyards, and including an extensive area of undeveloped land covered with chaparral. This thinly populated section is bordered on the east by the small towns of Fontana, Bloomington and Rialto all tributary to San Bernardino, and on the west by Cucamonga and Etiwanda. Colton, Highland, Loma Linda and Rialto are in this district and wholly tributary to either of the three larger cities just named. Citrus orchards largely occupy the territory between these cities and communities together with small farms and residential holdings. This district has a social,

economic and commercial identity apart from Los Angeles.

District No. 2 as proposed extends to and includes San Diego, 135 miles distant from Los Angeles. Applicant now serves as far as Long Beach on the coast and Santa Ana in the interior. The Coast Highway passes south through several sea-shore communities such as Huntington Beach, Newport Beach, Laguna Beach and Oceanside. The territory inland from these beach towns is more or less undeveloped and sparsely populated.

San Diego is the commercial center for several suburban communities proposed to be served, such as Coronado, National City, Chula Vista, La Jolla and others.

District No. 3 includes the well known cities of Santa Barbara and Ventura. Santa Barbara is ninety miles north of Los Angeles on the coast highway. Calabasas is the farthest point north now served by applicant. The highway north from this point to Camarillo, a small business community, traverses a sparsely settled farming section. Between Ventura and Camarillo is a fertile valley entirely devoted to agriculture. The territory between Carpinteria and Santa Barbara is also a highly cultivated farming area. Applicant proposes a diversion from the Coast Highway at El Rio and at Camarillo to reach Oxnard, with a population of 7,000, about two miles southwest of El Rio. A similar diversion is proposed from Ventura easterly through Santa Paula to Fillmore. Both Santa Paula and Fillmore have approximately 6,500 and 2,000 population respectively.

We have noted as pointed out by protestants that the proposed extended operations of applicant involve an operation over long stretches of highway through territory entirely different from that now served by applicant. These extensions no doubt involve operations into territory tributary to at

least four county seats not now covered by applicant. It is also true that the community interests of each of these county seats are largely distinctive and separate from those of Los Angeles. The record shows, and in fact applicant admits, that its plan of operations would necessarily involve a main line haul to nearly all of the principal cities sought to be served, together with the establishment of sub-stations at points and places most convenient and essential for the territorial delivery of parcels and packages.

In spite of the fact, however, that the various county seats in the three districts proposed to be served enjoy a community of interests, both social and economic, and also sustain a position of commercial identity apart from the City of Los Angeles the evidence of all interested parties overwhelmingly shows that the Los Angeles merchants, both wholesale and retail, also manufacturers, jobbers and dealers do an extensive business in and ship all kinds of goods, wares and merchandise in very large volume throughout this territory and that parcels and packages weighing under 100 pounds constitute a very material part of this volume.

Applicant called about twenty-five witnesses and in the interests of expedition, and to avoid lengthening a very voluminous record declined to offer any further direct evidence. The oral evidence of applicant was supplemented, however, by about 235 letters in volume form (applicant's Exhibit No. 2) to which some reference will be later made.

The evidence of applicant, both oral and documentary, indicates clearly a wide spread desire for the extended parcel service as proposed. The witnesses of applicant consisted of the executive officials and representatives of many of the

leading and largest business houses in Los Angeles who now are regular patrons of the applicant within its present authorized area. All of these witnesses testified not only to the need of the proposed extensions but also described many of the advantages, characteristics and special features of applicant's service. Mr. J. E. Casey, President of the United Parcel Service, also testified at length as to the distinctive features which make the United Parcel operations a highly specialized service. This specialized service as disclosed by the record is essentially different from the transportation service performed by the ordinary and well-known truck lines, several of which appear as protestants in this proceeding.

The evidence of applicant shows that the United Parcel Service specializes in the business of delivering packages and parcels not to exceed 100 pounds from the City of Los Angeles to several hundred cities, towns and communities in Southern California and operates a fleet of at least 100 Ford delivery cars in its service. It is one-way service only. A regular scheduled pick-up service, as a rule given twice daily within the City of Los Angeles, is rendered for the wholesale and retail merchants patronizing its service. The parcels are assembled at a central assembling depot and there segregated and classified by the use of a long moving belt on which they are placed. While passing along they are marked with district numbers within which the destination is located and are taken off the belt by the driver of the delivery car which covers the point within that route or district.

The delivery cars are specially constructed and adapted to this service and consist of hung bodies constructed

upon passenger Ford chassis. The drivers are uniformed and specially trained in parcel delivery and the cars are maintained at high standard of appearance. The drivers under applicant's system of delivery render a personal service which is designed and does give the same care and attention to the deliveries and to the needs of customers as though the drivers were employed directly by the store which sold the goods. Messages or complaints are taken, goods are permitted to be inspected or tried on and are kept or returned in part or otherwise as desired by the customer. Many stores and shippers in consequence of this personal contact and personal service by drivers utilize applicant's service in lieu of having their own delivery department.

The possession and sole control of all parcels from the time they are picked up and finally delivered to destination remain with applicant, and patrons by this unified delivery system are entirely relieved from the necessity of employing various auto truck lines which serve or cover different parts of the territory involved. In the use of one company all confusion in deliveries is avoided and the multiplication of equipment is largely eliminated at point of origin. In this connection the record shows that where one operating company has full control of parcels, and delivery is made by its own equipment, customers can rely upon a definite dependable schedule of service. Customers are also relieved of the necessity of keeping separate accounts with several transportation companies and are required to keep only a simplified account of all shipments sent to all the territory served by applicant.

The rates charged by applicant constitute another distinctive feature of its service and the tariff of rates of applicant now in effect will be identical with that proposed to be charged in the territorial extensions for which a certificate is sought. Applicant charges a general rate of 1¢ per pound plus

9¢ on packages weighing over one pound and not over 100 pounds, and also has a graded rate structure over which the rate per parcel decreases as the volume of shipments from any store increases.

The protesting truck lines in this proceeding contend that the projecting of these parcel rates into the new territory will impose unfair competition upon their auto truck service. The Commission in its former Decision No. 16425 reviewed fully the essential and structural characteristics of these rates and declared them to be legal and free of any discrimination, and it is unnecessary to again review them here. The evidence shows that applicant's system of rates is the result of much study and experience as applied to its specialized parcel service, both for the purpose of profitable operation and for a rendition of a high class parcel service.

The foregoing outstanding features of applicant's service were particularly referred to and endorsed by the various wholesale and retail merchants appearing as witnesses in support of the proposed extended service.

Walkers, Inc. is one of the largest retail stores in Los Angeles and the following excerpts from the testimony of its General Superintendent, E. W. Sjostrom is typical of testimony of other witnesses introduced by applicant and is indicative of the many reasons for the extensive demand for the proposed extended service. Volume 2, page 305, et seq.

"Q. Enumerate the distinguishing features and any advantages, if any, in having the United Parcel Service available to you in the territory in which it now serves.

A. First, to avoid congestion in the alley where freight is received for other houses who are doing business in that

neighborhood. I mean by that that the United Parcel Service have their own pick-up trucks and they come at stated times and take all of our parcels away between 11 and 12 o'clock, when there is the least congestion, and between 5 and 6 at night. It eliminates all supervision on our part and it eliminates a large number of men who have to work in the delivery department, and all we do now is to have two men recording the packages as they come down from the different floors. The United takes those parcels and delivers them for us and we have no supervision over the delivery department, don't need any supervision; second, the adjustments are handled very satisfactory, having a direct telephone we can get information quickly, quicker through them than if we had our own delivery department. It is a large organization. Another advantage is that they can give us two deliveries a day over the entire system because they have such a large amount of equipment and have the city divided into over 80 delivery sections, whereas, with our own delivery we would only be able to divide it into 15 sections. That means the drivers have more time to deliver their packages and to listen to the customers' reports and turn them in to us, which they do, and the drivers also get personally acquainted with the customers because they do not have such a large territory to cover, which is a very big feature, ----- and we do not have to hire any drivers, don't have to train drivers or educate them, and it takes a lot of work off the store's end.

Q. How about C.O.D. shipments?

A. The C.O.D.'s are handled very satisfactorily and we have never lost any C.O.D. money.

Q. What is the advantage of having one delivery company

so far as covering the general territory in which you have deliveries is concerned?

A. Its personal use to us.

Q. We are asking to extend into three new districts--- does your store now have deliveries into those three districts?

A. We have.

Q. How are those deliveries at present made?

A. Most of them are by private truck companies, sometimes by express, sometimes by rail or electric railway and sometimes by parcel post.

Q. Are those means of service satisfactory to you?

A. They have not been satisfactory to us.

Q. Is there anyone of those channels which is used more than the other for the delivery of packages into these three territories, that is up to 100 pounds.

A. The parcel post for the light parcels and the others for the truck lines.

Q. As to the parcel post packages into all of these three districts is that service satisfactory?

A. It is not satisfactory and not pleasing the customers.

Q. Why is that Mr. Sjostrom?

A. First, with us it is expensive packing, you have to wrap the parcels and comply with all the requirements as to the weight, and you have to consider how it should be packed, and then you can't promise any definite date of delivery, and if it is out in the country the package is sometimes taken to the rural mail box and if that is full it is taken back to the postoffice, and many times the customers have to call at the

postoffice for their packages. Then they can't handle C.O.D.'s for us. They will take the C.O.D. package and charge the customer for returning that money to us, and when they take that C.O.D. out, when the carrier takes that package to the customer, if the customer offers to pay by our exchange check, which he might hold, the postoffice department can't accept them, and they don't take our own checks. Then, they can't exchange the merchandise for us in case the customer wants one package exchanged for another they can't give us that service.

Q. Is there any pick-up service for the parcel post packages?

A. No, we have to deliver those packages ourselves down to the Arcade substation."

The record shows that wholesale stores also extensively use applicant's service on account of the many specialized features enumerated in the testimony above quoted.

It appears that while the deliveries for wholesale houses constitute about one-third of the total volume of business now done by applicant in its present territory, the estimated volume of wholesale business will be just the reverse in the proposed extensions. In fact, applicant admits that the San Diego district will have about 90% wholesale deliveries, the Santa Barbara district about 85% wholesale deliveries, and Riverside district about 80% wholesale deliveries. The evidence of representatives from wholesale firms indicates that their parcels are heavier than those of retail houses and that the average weight of a wholesale shipment is about 10 pounds. The undisputed record indicates that the average retail shipment weighs

about five or six pounds.

The following Exhibit No. 7, introduced by applicant, affords an interesting study in the number and weight of parcels delivered by applicant for wholesale customers for the weekly periods indicated as follows:

Weight per package, pounds.	<u>Week Ending June 27, 1925</u> (Figures quoted in Decision 16425, Application 11122).		<u>Week Ending October 16, 1926</u>		Percent Increase in Packages by groups as compared with week ending June 27, 1925
	Number of Packages	Percentage of Total Number of Packages	Number of Packages	Percentage of Total Number of Packages	
1 - 5	4,816	50.7	7,423	48.37	54.2
6 - 10	1,941	20.4	3,061	19.95	57.8
11 - 15	1,011	10.6	1,604	10.45	58.7
16 - 25	992	10.4	1,779	11.58	79.4
26 - 50	646	6.8	1,305	8.46	102.0
51 - 70	67	.7	132	.85	97.0
71 - 100	<u>16</u>	.16	<u>49</u>	.34	<u>206.3</u>
	<u>9,489</u>		<u>15,353</u>		<u>61.8</u> "

It is obvious from a study of this exhibit, and is also corroborative of many witnesses for applicant, that the parcel shipments of wholesalers exceeding 50 pounds which are delivered by applicant are negligible when compared with those under 50 pounds handled by applicant. We are satisfied that one of the primary reasons for this is that the rates of applicant for the heavier parcels are higher than those charged by the truck lines and motor express carriers which discourages their movement

to any great extent by the service of applicant. In this connection it is the contention of applicant and fully supported by the record that it is not in the freight truck line business and does not desire to engage therein for the reason that a specialized parcel delivery service is essentially and necessarily different from the operation of a freight truck service as operated by the various protesting truck lines; and that the great volume of parcels and packages handled are comparatively small in weight, and that all deliveries are made in light delivery cars throughout a territorial area between all places and directions off and on all roads and highways to the home or store of the customer.

The evidence of applicant shows that shippers and consignees are using very largely the parcel post for delivery of small packages and parcels from Los Angeles to points within the proposed territorial extensions for the reason that the protesting truck lines are engaged primarily in the transportation of heavy shipments and the record shows that not until several months after the filing of the instant application did certain protesting truck lines inaugurate a special parcel delivery service in many respects similar to that of said applicant to which we will later advert.

The record indicates that the applicant will receive its greatest volume of parcel business in the extended territory from hundreds of its patrons who now use the parcel post, motor stage lines and rail express service. The testimony of most of the witnesses as well as the contents of several hundred letters from merchants and shippers discloses numerous disadvantages of the parcel post service. It appears that the parcel post service is slow and undependable and that all parcels have to be care-

fully wrapped and many requirements as to the weight and size have to be strictly complied with. In rural districts packages are often returned to the post office compelling customers to call at post office. The handling of C.O.D. parcels by the Postal Department is restricted as no checks are taken from shipper or customer and no exchange of packages is permitted. The evidence shows that the motor stage express service is also entirely unsatisfactory for the general handling of a parcel delivery service and that it is only used from time to time for emergency shipments. We have read with some care the contents of the several hundred letters introduced by applicant in volume form and they disclose a general sentiment and an unanimous endorsement of the extensions sought by applicant.

The protesting truck lines also introduced considerable oral and documentary evidence in connection with the existing service rendered by each and all of them in the three proposed territorial extensions. A brief review of the truck service to each district is deemed necessary in considering the grounds of the various protests.

The proposed extension to San Bernardino and Riverside district is served by three of the protestants.

Rex Transfer Company has been operating for several years from Los Angeles to Bloomington, Corona, San Bernardino, Redlands, East Highlands, Highlands, Rialto and Fontana. It maintains in its service about fifteen trucks and six trailers and makes a daily delivery from Los Angeles to the points named and in certain instances two deliveries daily. Morning deliveries to this truck line at Los Angeles are transported to San Bernardino and Redlands in the afternoon arriving usually from three

to four o'clock p. m. Shipments received at Los Angeles in the afternoon are carried during the night and are delivered during the forenoon on the following day. A terminal depot is maintained both at San Bernardino and Redlands with a sufficient number of local employees and trucks to handle freight and the pick-up and delivery service operated out of each depot covering San Bernardino and Redlands and points along the highway traversed. The principal terminal of this carrier is at Los Angeles where two pick-up trucks are used together with about eight employees.

Motor Service Express operates a daily truck service between Los Angeles and Anaheim, Fullerton, La Habra, Riverside and San Bernardino and other points not necessary to mention here. It maintains a terminal at Los Angeles and also a district terminal or agency at both Riverside and San Bernardino. About twenty-five or thirty trucks are used in these services including nine pick-up trucks in Los Angeles, three in Riverside, and two in San Bernardino. Two daily schedules are operated between Los Angeles and San Bernardino, - one schedule leaving Los Angeles during the night and the other one leaving Los Angeles about twelve o'clock noon. This motor truck carrier inaugurated a parcel and package service during the hearing of this proceeding to which we will later refer.

The Belt Line Express does not operate out of Los Angeles but operates between Newport and other Orange County points on the one hand, and San Bernardino, Riverside, Redlands, Colton and Highlands on the other hand. The territory served by this carrier is about the same as that of the Rex Transfer Company. A daily service is rendered between the points named

and about three or four trucks are operated. This carrier receives at Anaheim from Los Angeles a substantial volume of parcels and packages which are forwarded by the Inter-City Parcel Service over the Triangle Express to be delivered at San Bernardino, Riverside and Redlands.

The proposed Santa Barbara district is served by three protesting truck lines. Los Angeles and Santa Barbara Motor Express operates a daily service between Los Angeles and Santa Barbara and various intermediate points and communities using at least twenty-five trucks and many trailers, this equipment consisting of large main line trucks and smaller trucks for pick-up and delivery service. It maintains a principal terminal at Los Angeles. It also has local terminals or agencies at Santa Barbara, Fillmore, Santa Paula and Ventura. Agents, freight handlers and necessary pick-up and delivery trucks are employed in these communities to maintain its truck service in proportion to population served and business done. The shipments received at Los Angeles during the day before five p. m. are transported by this truck line in the night time and deliveries are made during the early hours of the following day.

Los Angeles and Oxnard Daily Express operates a daily service between Los Angeles and Oxnard covering two routes by way of the coast highway through Calabasas and Trunfo and the other by way of Santa Susannah and uses six main line trucks with additional pick-up and delivery cars at its two terminals. Its pick-up and delivery service includes Oxnard and the communities served embracing Camarilla, Santa Susannah, Simi, and

Moor Park and intermediate territory within a radius of ten miles of the routes traveled.

The proposed extension to the San Diego district is also served by two protestant truck lines, The Coast Truck Line and the Boulevard Express operate about ten trucks and six trailers each way daily between Los Angeles and San Diego. Coast Truck Line serves all points between Oceanside and San Diego independent of whether the freight originates in Los Angeles or San Diego. It also operates daily three schedules between San Diego and Oceanside. The Boulevard Express serves all points intermediate between Los Angeles and San Diego when freight originates in Los Angeles, and serves all points intermediate between Los Angeles and North Oceanside when freight originates in San Diego or points intermediate between San Diego and Oceanside.

Los Angeles and Newport Freight Line operates between Los Angeles and Huntington Beach, Newport Beach, Balboa and Laguna Beach and all way-points between Huntington Beach and Laguna Beach and maintains a daily schedule to these points, deliveries with the exception of Laguna Beach being made in the forenoon. Tolson Transportation Company operates out of Los Angeles to Long Beach and also serves Huntington Beach.

A large number of witnesses were called by the protesting truck lines at the hearings held at San Bernardino, San Diego, Santa Barbara and Los Angeles. These witnesses were owners or representatives of wholesale or retail stores in the various communities proposed to be served.

The evidence of all these witnesses including official representatives from the Chambers of Commerce and other civic organizations of many of the principal communities shows that the freight truck service of these protesting truck lines is

adequate and efficiently rendered. The evidence in this connection, and insofar as it applies to the adequacy and efficiency of the existing freight truck service, is not challenged or questioned by United Parcel Service. Applicant claims and contends, however, that the record clearly shows that the protesting truck lines by their admissions, acts and practices as shown by the record in this proceeding, concede the public necessity and convenience for a parcel and package delivery service into the three districts proposed to be served by applicant.

It is true, as shown by the protesting truck lines, that a considerable volume of their freight business has always consisted of numerous shipments weighing under one hundred pounds. Exhibits offered by the various truck lines showing the number of packages weighing over 100 pounds as well as under 100 pounds discloses that the number of shipments to all points under 100 pounds constitutes percentages ranging from 33% to 40% of their total shipments. We are not convinced, however, nor does anything in the record show that these exhibits as to percentages of weight furnish any accurate data or information of value relative to the weights of parcels handled by the truck lines weighing under 50 pounds or at least within the average weight of parcels shown by the evidence in this record which will be transported by the applicant into the three extensions. It clearly appears by the testimony of many witnesses, both for the applicant and the protestants that by reason of the existing and long established minimum weights of the protesting truck lines ranging generally from 35¢ and 50¢ to 75¢, that the great bulk of shipments weighing generally

between 50 pounds and 100 pounds have been and will continue to be carried by the freight truck lines and the shipments of the lighter or smaller parcels which range as an average from one to ten pounds will be handled to a large extent by the specialized parcel delivery service of applicant, or by the parcel service of such organizations as the Inter-city Parcel Service whose advent into the field of parcel delivery service at a very recent date clearly indicates that the protesting truck lines as such have never rendered to the public in the three extensions sought the specialized parcel service proposed by applicant.

This Commission in a previous decision, (No. 16425 on Application No. 11122) has recognized that the transportation service of freight truck lines is essentially different from the specialized parcel delivery service of the applicant. There are several well-known distinguishing features and characteristics between these two kinds of transportation services,

First: The ordinary commercial truck line operates between two or more specific termini, moving along a direct highway and serving limited or varying distances off the highway traversed.

Second: Its business consists mainly in the transportation of heavy freight and supplies of all kinds for all persons.

Third: Its chief and essential equipment consists of large trucks, together with trailers, which are used both for pick-up and delivery service, augmented at main terminals with a limited number of smaller pick-up trucks.

Fourth: Its shipments are transported generally in both directions along its established route serving, as a rule, intermediate points directly on the highway or closely adjacent

thereto.

Fifth: The drivers of its trucks are charged with the duty of delivering freight to consignees, but perform no individual or personal service either to shippers or customers and represent only their employers.

Sixth: Its rate structure is not uniform, but is of a type more or less extensive and complicated and generally embraces a comprehensive rate system necessary to classify all kinds and characters of shipments.

Seventh: The pick-up/^{parcel} service of freight truck lines operating out of large commercial and industrial centers, such as Los Angeles, is neither uniform nor unified nor definitely established, for the reason that each separate truck line uses from time to time either in whole or in part its own trucks or those of other organizations or individuals under contractual relationships of uncertain or limited periods.

Several of the protesting truck lines rely, as one of their chief grounds of protest in this proceeding, upon the existing transportation facilities of a certain organization known as the Inter-City Parcel Service, Inc. Although not a protestant herein it is contended by the protesting truck lines that the Inter-City Parcel Service is a part and parcel of the service of many of these truck lines. In view of this position of protestants, a consideration of the nature, character and service of this organization becomes a vital and important issue in this proceeding.

The record shows that the Inter-City Parcel Service, Inc. was organized by owners of about five truck lines operating out of Los Angeles with the aim of furnishing, as a competitive service, transportation facilities for performing a

pick-up and delivery service at the point of origin for the shipment generally of small parcels and packages. It is practically a forwarding company of small parcels operating within the city of Los Angeles. It handles chiefly parcels and small packages weighing less than 100 pounds. The protesting truck lines which were instrumental in organizing this Inter-City Service frankly admit that it was formed for the purpose of inaugurating a competitive service against the authorized service of the United Parcel Service, applicant herein. Moreover, the evidence shows that the plan and method of operations of the Inter-City company, as hereinafter detailed, are essentially similar to if not entirely identical with the distinct features and characteristics of the highly specialized parcel service of the United Parcel Service.

Apparently the business of the Inter-City Service consists chiefly in the handling of packages and small shipments with which this proceeding is wholly concerned. The Inter-City Service owns and operates many small trucks which call daily and often twice daily at wholesale and retail houses in Los Angeles and pick up small parcels and packages for delivery to numerous points served by the various truck lines in the territory now served and proposed to be served by applicant. These packages are taken to a terminal which the company maintains at a central depot, there assorted, marked, waybilled and segregated into classification bins, those destined for city deliveries being assembled in one place, and those destined for shipment to outside points being placed in hampers to be forwarded over the lines of the various freight truck lines. The shipments to be forwarded are placed on the loading platforms at points reserved for any particular truck line using this service, where they are picked up and trans-

ported by truck companies to destination during the night time and delivered in the forenoon of the following day. It is significant that the rate which this company charges on its shipments weighing up to 41 pounds is identical with the established rate of the United Parcel Service which rate is 9 cents per package, plus one cent per pound. A parcel weighing 41 pounds would cost 50 cents for transportation from Los Angeles to any of the points covered by the Inter-City Service or by the truck lines over which it forwards its shipments under bulk package rates. We have already noted herein that, by reason of the higher rates of applicant for the heavier parcels weighing approximately from 50 to 100 pounds, the truck lines will in our opinion continue to carry, as in the past, these heavier parcel shipments under the long established truck line minimums and obviously suffer no serious detriment.

The Inter-City Service made no appearance as a protestant and its service is not open or dedicated in any sense as a public utility to the public service. We are not in accord with the contention or claim of the protesting truck lines that the service of the Inter-City Service Company, wholly private in its character and admittedly incidental to the facilities of the truck lines, is dependable and permanently established. One group of truck lines, protestants in this proceeding, frankly concede, which is illustrative of the uncertainty of the dependency or permanency of the Inter-City service, that they are not in favor of the forwarding features of the service of this private organization, but favor another and better method of unified pick-up service by all truck lines, provided that such a plan were possible by cooperative effort. The record shows that the 30 truck lines, more or less, operating

out of Los Angeles have no uniformity or unification of a pick-up parcel and package service such as that now rendered or proposed to be rendered by the United Parcel Service.

The Inter-City Service is not a public utility and is free from and does not recognize any form of regulation by this Commission. Its service is based solely upon private agreements and its rates and charges to any patron or customer is a matter of private negotiation and private understanding either oral or written. No rates have ever been filed with the Commission and no tariff of any kind has ever been published anywhere by this organization.

We cannot see our way clear to give or extend any protection or recognition to an organization of this kind and character which is not under the jurisdiction or regulation of this Commission and which obviously may at will alter its rates or modify its service or, moreover, at any time abandon or discontinue its service.

In the granting or denial of applications for certificates of public convenience and necessity this Commission has always given and will continue to give consideration and recognition only to the transportation facilities and services of persons, organizations, or companies who are common carriers under and subject to its regulation and jurisdiction.

The record also shows that five months subsequent to the filing of the instant application two of the protesting truck lines inaugurated a parcel delivery service into two of the districts proposed to be served by applicant and that the public generally, including many of the patrons of both the applicant and protesting truck lines, immediately began patronizing this special parcel delivery service and have continued to

do so ever since. Several exhibits introduced by the applicant indicate clearly the manner and method of inaugurating this new parcel delivery service by two of the protesting truck lines. We quote from a letter (applicant's exhibit No. 15,) which was mailed by the Coast Truck Line on June 6, 1927, to its shippers which reads in part as follows:

"Gentlemen:

In Re Parcel Rates.

We take pleasure in announcing that beginning January 10, 1927, the Coast Truck Line will operate a special parcel service from Los Angeles for all San Diego stores at decidedly reduced rates.

This service will include free pick-up of parcels in the down town district of Los Angeles and free delivery to your store anywhere in the city limits of San Diego. Parcels picked up one day in Los Angeles will be delivered to you the next morning in San Diego. The enclosed circular gives full details as to rates and service.

We feel that this service has special advantages over Parcel Post and request that you carefully read the enclosed circular.

Yours very truly,

COAST TRUCK LINE

Per Parcel Service Manager."

Immediately following the announcement shown by the foregoing letter Coast Truck Line and Motor Service Express, widely distributed and published by means of a large yellow circular or card the following announcement:

HANG THIS UP FOR REFERENCE.

COAST TRUCK LINE

Parcel Service from Los Angeles

Via COAST TRUCK LINE to SAN DIEGO and following
San Diego County points:

Cardiff	Mission Beach
Carlsbad	National City
Del Mar	Ocean Beach
East San Diego	Oceanside
Encinitas	Pacific Beach
Escondido	San Marcos
Fallbrook	Solana Beach
La Jolla	Vista

New Rates Effective January 10, 1927.

Via MOTOR SERVICE EXPRESS to RIVERSIDE
and
SAN BERNARDINO.

New Rates effective January 20, 1927.

This Parcel Service Gives to Los Angeles Shippers:

1. Reduced rates. Former minimum charge on parcels, 75¢.
Now, 14¢ per parcel plus 1¢ per pound delivered to stores.
Now, 24¢ per parcel plus 1¢ per pound delivered to residences.
2. Free pick-up in Los Angeles in downtown area bounded by Aliso St., Washington St., Figueroa St. and Santa Fe Ave.
3. Free local delivery anywhere in city limits of San Diego or to any other point served.
4. Overnight service. Parcels picked up one day delivered following morning.
5. Special high class pick-up and delivery trucks, with uniformed drivers. Fast line haul trucks carrying parcels in hamper to prevent damage.
6. Free insurance up to \$25.00 per parcel.

The following table shows how rate applies to parcels of different weights:

<u>Weight</u>	<u>Delivered</u>	
	<u>To Store</u>	<u>To Residence</u>
1 Lb. -----	15¢	25¢
10 Lbs. -----	24¢	34¢
25 Lbs. -----	39¢	49¢
50 Lbs. -----	64¢	74¢

This new and special parcel service, as disclosed by the evidence, attracted a large response and innumerable

shippers in the two districts proposed to be served availed themselves of the various features of the new service as outlined in the above letter and circular. It is quite apparent that the inauguration of this special service by these two truck lines involved a very material reduction of rates and a revision of their rate structures, together with the employment of special and smaller truck equipment, as pictured on said circulars, to meet the needs of this parcel service.

The record also shows that from its inception the unauthorized service of the Inter-City Parcel Service, which in our opinion was designed to compete with the proposed service of applicant, was utilized by Los Angeles shippers. It appears that among these shippers and patrons were ^a large number of protestants' witnesses who, although testifying to the adequacy of the freight truck service of the protesting truck lines, frankly admitted that upon the advent in the field of the Inter-City Service, they and each of them availed themselves of the special transportation facilities afforded by this unregulated parcel and package carrier. Moreover, many of the witnesses produced by protestants, which included representatives of several civic and commercial organizations, admitted they had little or no knowledge of the origin or organization of the Inter-City Service, but testified in their opinion that any parcel service available to them ought to be regulated by the Railroad Commission.

It is clear to this Commission that when this application was filed on May 14, 1926, not one of the protesting truck lines, or as a matter of fact any authorized truck line,

was rendering any parcel and package delivery service into the three districts as proposed by the United Parcel Service. The evidence shows that the Coast Truck Line operating into the San Diego District, and Motor Service Express, operating into the San Bernardino Riverside District, inaugurated their special parcel service about the middle of January, 1927, five months after the applicant filed this proceeding. The prompt response to and substantial patronage of this belated parcel service indicates the existence of the public need which this applicant had declared existed on August 14, 1926, and applied for authority to furnish.

We are of the opinion that the facts and circumstances as shown by the record herein brings this application clearly within the doctrine and principles laid down by this Commission in the following well-known cases:

Pacific Gas and Electric Co. vs.
Great Western Power Company, Vol. 1,
Opinions and Orders of the Railroad
Commission, 203.

Application of Oro Electric Corporation,
Vol. 1, Opinions and Orders of the
Railroad Commission, 253.

This Commission in the above cases established the doctrine that an application for a certificate of public convenience and necessity shall be judged and decided upon the conditions existing at the time the application is filed; that a protestant who has not kept pace with the public needs and who, long after an application is filed, offers to render to the public the service applied for is not entitled to consideration.

This Commission in the Great Western Power Case said
in part:

"It is certainly true that where the territory is served by a utility which has pioneered in the field, and is rendering efficient and cheap service and is fulfilling adequately the duty, which, as a public utility, it owes to the public, and the territory is so generally served that it may be said to have reached the point of saturation as regards the particular commodity in which such utility deals, then certainly the design of the law is that the utility shall be protected within such field; but when any one of these conditions is lacking, the public convenience may also be served by allowing competition to come in ----- . To all new utilities we shall likewise hold out the incentive that on the discovery by them of the territory which is not accorded reasonable service and just rates, they may have the privilege of entering therein if they are willing to accord fair treatment to such territory."

In the Oro Electric Decision the Commission say:

"The California Commission, unless particular circumstances call for a different method of handling the problem looks to the existing utility as of the day when the newcomer knocks at the door. If the existing utility is at that time found not to be doing its duty to the public, the newcomer is permitted to enter ----- . Furthermore, the Commission held that it would judge the two utilities as of the day when the new utility filed its application with this Commission, so that a utility desiring to be protected in the way of competition must do its full duty to the public before and not after the newcomer knocks at the door."

Considerable evidence was introduced with reference to the contention of Coast Truck Line and Motor Service Express, protestants, that the applicant would be unable to operate its service at a profit in the San Diego and San Bernardino districts for the reason that its proposed rates are too low to meet costs of operation. Separate exhibits were offered by the respective parties showing estimated results of operation by applicant of the proposed parcel service in these two districts for a period of one month. These exhibits disclose a wide difference of opinion, as it appears that applicant estimates monthly profits ranging from \$230. to \$316. in the two districts, and the pro-

testants estimate probable monthly losses from \$928. to \$1000. The record shows that applicant has based its estimates upon actual experience in the operation of its present special parcel delivery service, while the protestants rely upon the various elements of cost involved in the conduct of its truck operations in the territory proposed to be served.

The evidence shows without contradiction that a very large volume of small parcels and packages is shipped daily from Los Angeles by means of every kind of transportation facility now afforded to the districts proposed to be served and this Commission is convinced from the record herein that applicant, if permitted to operate its proposed extended service, will be able to conduct a profitable service.

After a careful and full consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that public convenience and necessity require the extension by applicant of its present automobile parcel-delivery service to the territory specified in the application.

The applicant herein is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact which appear in the opinion preceding this order:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

hereby declares that public convenience and necessity require the operation by United Parcel Service of Los Angeles, Inc., a corporation, of an automotive truck service as a common carrier

for the transportation of packages and parcels of merchandise not exceeding 100 pounds each in weight, as an extension of its present service of similar character from Los Angeles to the following points and over and along the following routes, viz:

District 1. Extension of territory beyond Upland along the Foothill Boulevard through Cucamonga, Rialto, San Bernardino, Redlands, also beyond Ontario along the Valley Boulevard through Colton to Redlands, also beyond Ontario through Corona, Arlington, Riverside to Redlands;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

District 2. Extension of territory beyond Tustin through San Juan Capistrano, Oceanside, La Jolla, San Diego, Coronado, National City and Chula Vista, also beyond Long Beach through Huntington Beach, Newport Beach, Laguna Beach to San Juan Capistrano;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

District 3. Extension of territory from Los Angeles through Calabasas, Ventura, Carpinteria to Santa Barbara, together with extension to Oxnard, Santa Paula and Fillmore;

With the right to serve all of the intermediate and intervening points and to make any necessary diversions to any point within five miles of the main highway traveled.

It is hereby ordered that a certificate of public convenience and necessity be and the same is hereby granted to

said United Parcel Service of Los Angeles, Inc., a corporation,
for the operation of the service hereinabove described subject
to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 9th day
of July, 1928.

Leon Whidell
Chas. Seaver
Edward East
John D. Lovell
M. J. Curran
Commissioners.