

Decision No. 20501

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
DUANE D. STAFFORD and PERCIE C. THACKER, )  
co-partners, doing business as PIONEER )  
TRUCK & TRANSFER COMPANY, for certificate )  
of public convenience and necessity to )  
operate an automotive trucking service )  
as a common carrier for compensation for )  
the transportation of uncrated used )  
household goods, personal effects, )  
furniture, musical instruments, radios, )  
office and store fixtures and equipment )  
and farm products between points located )  
within the Imperial Valley on the one )  
hand and Los Angeles and Los Angeles )  
Harbor and San Diego on the other hand. )

ORIGINAL

Application No. 20923

RAY D. JOENSON, for Applicant;

HAROLD W. DILL, for Warehouse Association of San Diego  
and Imperial Counties, Interested Party;

EDWARD STERN, for Railway Express Agency, Inc.,  
Protestant;

WALLACE K. DOWNEY, for Pacific Freight Lines,  
Protestant;

HENRY J. BISCHOFF, for Southern California Freight Lines  
and Southern California Freight  
Forwarders, Protestants;

PHIL JACOBSON, for G. F. D. Lines, Inc., Interested Party.

BY THE COMMISSION:

O P I N I O N

By this application as amended, Duane D. Stafford and Percie C. Thacker, co-partners doing business under the name and style of PIONEER TRUCK & TRANSFER COMPANY, seek authority to establish and operate an automotive service as a highway common carrier for the transportation of uncrated used household goods, personal effects,

furniture, musical instruments, radios, office and store equipment, and farm products consisting of hay, grain, flax, feed, citrus fruits, lettuce, carrots, asparagus, tomatoes, cantaloupes, melons, celery, and peas, between

- (a) Ranches, farms, groves, and other points of production located within the Imperial Valley near or adjacent to Calexico, Eber, Seeley, El Centro, Holtville, Imperial, Brawley, and Westmoreland, on the one hand, and Los Angeles, Los Angeles Harbor (Wilmington and San Pedro) and Long Beach Harbor, on the other hand, via U. S. Highway No. 99, with intermediate service to be rendered to Riverside, Hemet Valley, Redlands, San Bernardino, Colton, Ontario, Pomona, and vicinities, for the transportation of hay and grain destined from Imperial Valley points to said intermediate points and their vicinities.
- (b) From said Imperial Valley points, on the one hand, and San Diego, Lakeside, and Escondido and their vicinities, on the other hand, via U. S. Highway 80 for the transportation of all of the commodities hereinbefore enumerated.

A public hearing in this matter was conducted by Examiner Austin at El Centro and Los Angeles, briefs filed, the matter submitted, and it is now ready for decision.

In justification of the granting of the authority herein sought, applicants allege:

- "(a) That the service proposed by applicants is of a specialized nature and is for the transportation of uncrated used household goods, personal effects, furniture, musical instruments, radios, office and store fixtures and equipment and farm products and supplies only. Applicants do not propose to transport general merchandise,

nor to render any service to points within the limits of any City or Town, or along said routes or within said territory, except for the movement of said goods and equipment and farm products, from residence to warehouse or residence, from farm to market, from farm to packing-house, from packing-house to packing-house, as the case may be, or to point of shipment over the line or lines of other carriers by land or water.

- "(b) That to the best of applicant's knowledge, information and/or belief, no common carrier offers a specialized service for such transportation of such goods, commodities, products and supplies within the area covered by this application; that a common carrier truck service to adequately meet and care for the agricultural demands and needs of said territory must be specialized as well as flexible. Crops mature rapidly and at various seasons in the Imperial Valley, and it is most essential that adequate, speedy and experienced transportation service be ever ready and available to meet such constantly changing seasonal demands. Time of arrival of produce at market points is most important to the grower, due to price fluctuations and market conditions; and because of the perishable nature of many of such commodities it is essential that they move with all possible speed and with minimum handling.
- (c) That applicants, because of their many years of experience in said specialized field of transportation in the territory and vicinities enumerated; their maintenance of a warehouse and terminal in the Imperial Valley; their having engaged in the trucking business for the past twenty years; and, because of a previous permit having been granted them by this Commission for trucking operations in the Imperial Valley, peculiarly enable them to render a specialized service for the transportation of said goods and commodities, such as is offered by no other common carrier at this time."

Due to the seasonal peaks of various crops maturing within the various areas of Imperial Valley, applicants allege it is impracticable for them to fix any regular schedule of operations between the points and within the areas involved, and so they propose to operate an "on call" service.

The granting of this application was protested by Railway Express Agency, Inc., Pacific Freight Lines, Southern California Freight Lines and Southern California Freight Forwarders. The

Warehouse Association of San Diego and Imperial Counties, and G. F. D. Lines, Inc. appeared as interested parties.

Generally, the testimony of various public witnesses in this proceeding was to the effect that applicants had hauled for them, that they were dependable, and that business would be given to them. It was further testified that applicants' proposed service would meet their needs; that "on call" service was desirable in most instances; that service was needed seasonally; that in so far as hay, grain, flax, and wheat were concerned, it was preferable to ship in truckload lots of approximately 18,000 pounds, but sometimes as little as three tons would have to be moved; and that applicants' equipment was adequate for the requirements of this service.

Percie C. Thacker, one of the applicants, stated he was engaged in the trucking business locally, and conducted a warehouse, garage, and a storage and service station in El Centro. He was in partnership with Duane D. Stafford, had formerly held a general freight certificate between Imperial Valley points, and now operated under a permit from this Commission as a highway contract carrier. He stated he had terminals at El Centro and Brawley. He has eight trucks available for this operation, including seven from  $1\frac{1}{2}$  to 3 tons; one ten-ton semi-trailer; one four-wheel trailer; one Chevrolet commercial pickup truck; three  $2\frac{1}{2}$  ton Mack flat-rack stake body; one two-ton Dodge Graham; one  $1\frac{1}{2}$  ton Ford; one  $1\frac{1}{2}$  ton Chevrolet; one  $1\frac{1}{2}$  ton International; one  $2\frac{1}{2}$  ton Federal; one  $2\frac{1}{2}$  ton International Tractor with permanent semi two-axle trailer; one four-wheel utility two-axle trailer; one Chevrolet commercial pickup and four-wheel dual utility trailer. He is financially able, he testified, to secure additional equipment if necessary. He proposes to haul household

goods from Imperial Valley points to San Diego and Los Angeles under rates prescribed by the Commission, also to Los Angeles Harbor and certain proposed intermediate points as set forth in his application.

He also testified he proposed to haul hay and grain from farm to Los Angeles and certain intermediate points and to San Diego, and that he would also haul from storage warehouse in the Imperial Valley.

F. E. Rankin, assistant manager of the Imperial Valley Asparagus Growers, testified that his association has some forty members, each farming from six to three hundred acres; that 50% of their crops were hauled by truck to Los Angeles. The asparagus is hauled from the field to the sheds in El Centro by association controlled trucks, he stated, and is then trucked from El Centro to Los Angeles, where it must arrive by 11:00 or 11:30 P.M., thus necessitating a six or seven-hour service. Asparagus is "in" from February to May and from September to the end of November. Spring pickups, when the movement is light, may be made up to 4:00 or 4:30 P.M. at El Centro, never later than 5:30 P.M. To San Diego, he stated, the buyers use their own trucks; the association would also use its own trucks there.

For produce such as tomatoes, squash, cucumbers, and the like, applicants propose a pickup service along various defined pickup routes among ranches to their terminals, where it will be reloaded on line trucks for Los Angeles. Cantaloupes and lettuce, he stated, will move principally from packing-sheds in Imperial Valley towns with some movement from sheds on the ranches. The movement of perishable vegetables, he testified, originates at many small

ranches; since there very seldom is sufficient tonnage at one or two adjacent ranches for a full load, it is essential to use pickup routes with a transfer at terminals to line-haul trucks for delivery to market.

Regarding applicants' proposed schedule of service, Mr. Thacker testified that in the transportation of household goods he would operate one round-trip per week to Los Angeles and San Diego. Hay, grain, flax, and citrus fruits would be afforded a daily "on call" service with delivery guaranteed within forty-eight hours from the time of pickup. Vegetables and perishable produce would be given daily service "on call" with the pickup deadline limited to not later than 5:00 P.M. daily upon shipments destined for the 12:00 o'clock midnight Los Angeles market. All other shipments will be subject to delivery within a reasonable time after truck departure.

Mr. Thacker testified he had formerly operated, under contract, until March, 1933, a pickup and delivery service in Imperial Valley for Pacific Freight Lines. During the same time he performed a similar service for Southern California Freight Lines, and he also conducted for Railway Express Agency, Inc. pickup of produce in the fields for delivery to its depot for re-shipment by rail. Buyers controlled the routings and named the carriers; the growers were unfamiliar with either the amount or the destination of shipments, these factors being controlled by fluctuations in the market prices. However, the growers are well aware that shipments must be ready in reasonable time to make market connections. Due to the seasonal maturity peaks which occur at different times, an "on call" service was the most feasible way to handle this business. He stated there were no important

produce markets in San Diego, buyers generally using their own trucks to reach this point.

Mr. Thacker, so he stated, has specialized in the handling of household goods. Because of climatic conditions prevailing in the Imperial Valley and the scarcity of rain, he has not found it necessary to use an enclosed van. No household goods, he stated, would be transported between intermediate points in the valley.

When questioned as to routes, Mr. Thacker stated he intended to follow the routes set forth on the map marked "Exhibit C" and attached to the application. It is his intention, so he said, to purchase new equipment. He also stated he would maintain no terminal outside the Imperial Valley, but he expected to provide terminals at both El Centro and Brawley. He was unable to estimate the number of pickup trucks necessary to serve Imperial Valley and proposed no back-haul to Imperial Valley excepting household goods.

After full consideration of the record in this proceeding, we are of the opinion that a public need exists<sup>(1)</sup> for the establishment and operation of a highway common carrier service by Percie C. Thacker and Duane D. Stafford, as co-partners, for the transportation of farm produce hereinabove specified, and hay, grain, and flax from ranches, farms, groves, and other points of production within the Imperial Valley near or adjacent to Calexico, Heber, Seeley, El Centro, Holtville, Imperial, Brawley, and Westmoreland, on the one hand, and Los Angeles, on the other hand, via U. S. Highway No. 99, limited to a pickup area within a radius of fifteen

(1)

For a more complete statement of conditions prevailing in the Imperial Valley, which, in the Commission's judgment, indicate a need for a service of this character, reference is made to Decision No. , in Application No. 20725, this day decided. These statements, omitted here in the interest of brevity, are to be deemed part of this opinion.

miles from the specific points in the Imperial Valley enumerated above.

The record will not sustain a finding that public convenience and necessity require any such service from Imperial Valley to San Diego, nor will it support a similar finding that public convenience and necessity require the establishment of a service for the transportation of household goods, as sought by applicants. In all other respects, therefore, save to the extent that it has been herein expressly granted, the application will stand denied.

Duane D. Stafford and Percie C. Thacker, as such co-partners, are hereby placed on 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 proceeding, the matter having been duly submitted, and the Commission being now fully advised in the premises:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Duane D. Stafford and Percie C. Thacker, as co-partners doing business under the firm name and style of PIONEER



TRUCK & TRANSFER COMPANY, of an automotive service, for the transportation of hay, straw, grain, fresh fruits, fresh vegetables, edible nuts, fresh or dried beans, fresh or dried peas, as a highway common carrier, as such is defined in Section 2-3/4 of the Public Utilities Act, from the Imperial Valley points of Calexico, Heber, Seeley, El Centro, Holtville, Imperial, Brawley, and Westmoreland, and an area within a radius of fifteen (15) miles from each of said points, on the one hand, to Los Angeles, on the other hand, via U.S. Highway 99, as a seasonal service from approximately November 1st of each year to approximately August 1st of the succeeding year.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Duane D. Stafford and Percie C. Thacker, co-partners, doing business under the firm name and style of PIONEER TRUCK & TRANSFER COMPANY, subject to the following conditions:

1. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicants shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
3. Applicants shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five (5) days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. 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 obtained.

5. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant shall, prior to the commencement of service authorized herein, and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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

Dated at San Francisco, California, this 3<sup>rd</sup> day of

January, 1938.

Walter J. ...  
Tom ...  
Frank ...  
K ...  
...  
Commissioners.