

Decision No. 22680

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of CLYDE STOREY, doing business
as Storey Auto Express, for a Cer-
tificate of Public Convenience and
Necessity to Enlarge Existing
Operating Rights as a Common Car-
rier of Property Between Los Angeles,
Wilmington and San Pedro.

Application No. 22680

SHAW, BAILEY & POE, by ARLO D. POE, for appli-
cant

H. J. BISCHOFF for SOUTHERN CALIFORNIA FREIGHT
LINES, protestant

WALLACE K. DOWNEY for PACIFIC FREIGHT LINES and
KEYSTONE EXPRESS COMPANY, protestants

E. L. H. BISSINGER for SOUTHERN PACIFIC COMPANY
and PACIFIC MOTOR TRUCKING COMPANY, protestants

G. E. DUFFEY & GEORGE HURST for THE ATCHISON,
TOPEKA & SANTA FE RAILWAY COMPANY and SANTA
FE TRANSPORTATION COMPANY, protestants

J. R. ZIMMERMAN for CITY TRANSFER & STORAGE COM-
PANY, protestants

ED STERN for RAILWAY EXPRESS AGENCY, INC., pro-
testant

BAKER, COMMISSIONER:

O P I N I O N

On December 17, 1919, by Decision No. 6954, in Applica-
tion No. 5018, the Commission declared that "public convenience
and necessity require the operation by Clyde Storey of an automo-
bile truck line as a common carrier of freight between Los Angeles,
Wilmington and San Pedro, such transportation to be confined to
the carriage of automobile parts, accessories and supplies; no
authority being conveyed under this certificate for the transpor-
tation of any other merchandise."

Applicant, in his present application, seeks authority
to enlarge the above described right to extend to the transporta-

tion as a highway common carrier between said points of certain additional commodities now handled by his customers⁽¹⁾, provided, however, that the shipments be consigned to or from business and commercial firms engaged principally in the sale of automotive parts, accessories or supplies, or in the business of repairing automotive equipment.

Public hearing was had in this matter with the companion application, No. 22681 of Mabel E. Smith, doing business as Allison Auto Express, on June 15, July 6 and 7, and August 3 and 4, 1939. Evidence was received at said hearing, the matter duly submitted, and it is now ready for decision.

The following facts were shown on behalf of applicant in support of his application; that his business from its inception was a specialized combination purchasing and delivery service rendered to garages and automotive supply houses; that commencing in 1929, his customers in San Pedro and Wilmington and the firms in Los Angeles from which the former purchased parts and supplies began to add various commodities to their lines such as radios, refrigerators, electrical supplies, items of hardware, etc., and that the aforementioned suppliers in consigning merchandise to his customers in San Pedro and Wilmington refused to split shipments consisting of both such types of articles and the transportation of the commodities which he is authorized to transport was lost to him; further, that owing to his lack of authority to handle other than

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- (1) ELECTRICAL APPLIANCES; household, including household furnaces and heaters, gas or electric
METALS, unfabricated, viz.; sheet, angle, bar, pipe, tubing-iron, steel, brass, bronze, copper and aluminum
RADIOS and SUPPLIES
HOUSEHOLD APPLIANCES, viz.; refrigerators, washing machines, and ironers
ROPE, wire, manila, cotton and twine
RUBBER GOODS, viz.; hose, insulated wire, shoes, bathing wear, belting
TOOLS, hand or machinery
MOTORS, gas and diesel, parts and supplies
MOTORS, electric, parts and supplies
VEHICLES, viz.; children's, bicycles, and supplies
SPORTING GOODS
MACHINE SHOP EQUIPMENT and SUPPLIES

automotive supplies, merchants have diverted to other carriers shipments consisting only of automotive supplies in order to avoid multiplicity of shipments with its accompanying duplication of bookkeeping, billing, etc. As a result of the loss of business occasioned by the above practices, applicant sold one of his two trucks in 1932 and testified that unless further authority is granted he will be forced to cease operations completely.

Succinctly stated, the above facts represent the complete showing of applicant. He made no showing that the service now being rendered by existing carriers for the transportation of general merchandise between Los Angeles and San Pedro and Wilmington was or is inadequate. On the contrary, many witnesses testifying on his behalf stated that the service rendered by existing carriers for such transportation was satisfactory. It is clear from the testimony of shipper witnesses called by protestants that their services are satisfactory and adequate. No beneficial purpose would be served by outlining in detail such testimony of applicant's or protestants' witnesses.

The following evidence and testimony introduced on behalf of protestants shows the service being rendered by them.

T. L. Wagenbach, Superintendent of Freight, Mail and Express of Pacific Electric Railway Company and Motor Transit Company, testified that Pacific Electric Railway Company operates a passenger express and freight service between Los Angeles, on the one hand, and Wilmington and San Pedro on the other hand; that such freight service is unrestricted as to commodities and affords pick-up and delivery service for LCL shipments; that two trips are made each way daily, except Sundays and national holidays, line-haul — trucks leaving Los Angeles at 6:00 A.M. and 11:45 A.M. and arriving at Wilmington at 7:15 A.M. and 1:15 P.M.; that deliveries commence immediately upon arrival and are generally completed about 10:30 A.M. and 3:15 P.M. respectively; and that such service has been generally accepted by the public as a satisfactory and desirable service.

Ed Kuerbis, an assistant to the President of Southern California Freight Lines, testified that said Company renders a general trucking service between Los Angeles on the one hand, and Wilmington and San Pedro on the other hand, in which there is afforded a store-door pick-up and delivery service; that in Los Angeles morning pick-ups are made between 10:00 A.M. and noon, and afternoon pick-ups between 2:00 P.M. and 5:15 P.M.; that deliveries of the afternoon pick-ups are commenced in San Pedro and Wilmington at 7:00 A.M. the following morning; that morning pick-ups arrive at Wilmington at 2:00 P.M. and deliveries are commenced there and at San Pedro immediately.

Ray Schneyer, Superintendent of Transportation for Pacific Freight Lines, testified that his company renders a general trucking service between Los Angeles on the one hand, and San Pedro and Wilmington on the other hand, in which is afforded a pick-up and delivery service; that two schedules daily are observed in such transportation, and that said service is in all respects similar to that rendered by Southern California Freight Lines, as described herein by Witness Kuerbis.

J. R. Zimmerman, Manager of City Transfer & Storage Company and Puckett Freight Lines, Ltd., testified that these companies render a general trucking service between Los Angeles, on the one hand, and Wilmington and San Pedro on the other hand, in which there is afforded a store-door pick-up and delivery service twice daily; that pick-ups are made in Los Angeles in the morning until 12:00 noon, and in the afternoon until 5:45 P.M.; that deliveries of the morning pick-ups are commenced in Wilmington at 1:45 P.M. and completed there and in San Pedro about 3:30 P.M.; that deliveries of the afternoon pick-ups are commenced at Wilmington and San Pedro at 7:30 A.M. or 8:00 A.M. and are completed about 10:30 A.M.

C. G. Anthony, Vice-President and General Traffic Manager of Pacific Freight Lines, testified that although his company was well patronized between Los Angeles and the harbor district, the equipment was not operating to full capacity due to the intense competition for the available traffic between these points. He stated that whenever a new carrier commences operation, there is an instantaneous diversion of some traffic from existing carriers even though the latter may be adequately serving the area. The result is that the load factor of the existing operators is reduced and the operating expense for each 100 pounds of freight transported is correspondingly increased. He further stated that as a result of keen competition for the freight moving between these points, a twice daily service is afforded by his company. Because of this, the operating cost to the harbor district is greater than operations over the same number of miles to other areas.

Ed Stern appearing on behalf of Railway Express Agency, Inc., submitted an exhibit(2) which shows the service of his company between these points. The exhibit also shows that there is offered a continuous pick-up service between 10:00 A.M. and 8:00 P.M. in the business district of Los Angeles and from 10:00 A.M. to 6:00 P.M. in the residential district of Los Angeles, and that 142 vehicles are maintained for this purpose.

(2) Train Schedule between Los Angeles, Wilmington and San Pedro

	<u>Lv. Los Angeles</u>	<u>Ar. Wilmington</u>	<u>Ar. San Pedro</u>
Pac. Electric	12:15 AM	7:40 AM	8:05 AM
U.P. Truck	8:00 AM		11:10 AM
Pac. Electric	10:00 AM	11:00 AM	11:15 AM
" "	1:45 PM	4:30 PM	3:30 PM
	<u>Lv. San Pedro</u>	<u>Lv. Wilmington</u>	<u>Ar. Los Angeles</u>
Pac. Electric	8:20 AM	9:00 AM	10:00 AM
" "	11:40 AM	11:55 AM	5:15 PM
U.P. Truck	3:30 PM		5:50 PM
Pac. Electric	4:10 PM	4:25 PM	5:20 PM

In addition to the services to which the above witnesses testified, it is apparent from the list of common carriers of general merchandise between Los Angeles and Wilmington and San Pedro, which applicant has set forth in the application and from the tariffs on file with this Commission, that there are approximately 11 highway common carriers⁽³⁾, three railroad companies⁽⁴⁾, and six express companies and freight forwarders⁽⁵⁾, offering a common carrier transportation service of general merchandise between said points which is not limited to steamship traffic. From this large number of carriers alone it would seem that there is no room for additional carriers, or for the enlargement of the operative rights of applicant. This conclusion is inescapable after considering the testimony of protestants and public witnesses.

It should be remembered that the authority granted to applicant by Decision No. 6954 in Application No. 5018 was predicated upon the theory that public convenience and necessity required an expedited transportation service of parts, accessories and automotive supplies. Applicant, in the instant proceeding, seeks to justify the enlargement of his rights not on the above theory, but on the grounds that he is suffering loss of business because of his restricted authority. Whether or not the authority prayed for herein by applicant should be granted depends solely upon whether the existing common carriers are rendering adequate

(3) Smith Bros. Truck Co., Star Truck & Transfer, Citizens Truck Co. Ltd., Reader Transportation Service, Pioneer Transfer, F. D. Gray, Keystone Express System, Atlas Transfer, J. A. Clark Draying Ltd., Pacific Greyhound Lines (express matter), United Parcel Service (restricted to transportation of shipments weighing 100 pounds or less)

(4) Southern Pacific Company, Union Pacific Railroad Co., The Atchison, Topeka & Santa Fe Railway Co.

(5) Highway Express & Forwarding Co., Pacific Freight Lines Express, Southern California Freight Forwarders, Goodman Delivery Service, 20th Century Delivery Service Inc. (restricted to the transportation of shipments weighing 100 pounds or less)

and satisfactory service for the transportation of those commodities which applicant in the instant application seeks authority to transport. Although it is unfortunate that conditions have so changed as to redound to the pecuniary loss of applicant, after carefully reviewing and considering all the evidence adduced at the hearing, I am convinced that there has been no showing made that public convenience and necessity requires the enlargement of the authority sought herein by applicant.

O R D E R

The above entitled application having been filed, public hearing having been held, and the Commission being fully apprised of the facts,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby denied.

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

Dated at San Francisco, California, this 30th day of April, 1940.

Ray L. Riley
Frank D. Sullivan
Ralph W. V. [unclear]
[unclear]
Justin J. Caseman
Commissioners