

Decision No. 42850

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of UNITED PARCEL SERVICE OF)
CALIFORNIA, INC., for limitation) Application No. 29898
of its certificated operative)
rights.)

Preston W. Davis for applicant.

ORIGINAL

O P I N I O N

By this application, as amended, United Parcel Service of Los Angeles, Inc. seeks to amend its certificates of public convenience and necessity so that its common carrier service will be legally limited to deliveries from manufacturers, manufacturers' agents, wholesalers, jobbers, and commercial distributors, including return of merchandise originally shipped outbound by said firms. The purpose of this application, as explained in the record, is to bring applicant's operative rights as a common carrier into conformity with the operation as it has actually been conducted.

The applicant's present operative rights as a highway common carrier embrace transportation of packages and parcels weighing not in excess of 100 pounds each, from Los Angeles and cities in the Drayage Area, Long Beach, and Pasadena to points in the territory generally north to Santa Barbara, east to San Bernardino and Redlands, and south through San Diego to the

Mexican border⁽¹⁾. Applicant alleges that, under appropriate permits from this Commission, it performs service as a city carrier within the cities of Los Angeles, Long Beach, and Pasadena; and as a city carrier and highway contract carrier, for a limited group of selected firms, principally retail department stores and specialty shops located in Beverly Hills, Glendale, Santa Monica, Pomona, San Bernardino, and San Diego.

A public hearing was held at Los Angeles on March 11, 1949, before Examiner Rowe, at which time oral and documentary evidence was adduced and the matter was submitted for decision.

As the Commission is aware, through evidence in other proceedings over the years, the peculiarities of applicant's contract operation have made it extremely difficult, if not impossible in many instances, to reconcile common carrier regulatory requirements with the practical operating needs of the retail department stores and specialty shops for which applicant has undertaken to act as delivery department. The granting of the proposal will tend to simplify the regulatory problems and thus promote a more efficient operation without sacrificing necessary control on the part of the Commission.

Applicant is at present not serving any retail stores as a common carrier. In answer to the question as to how many requests were received from retail stores, other than those having contracts, for deliveries by applicant, Mr. Hayes, the Vice President of United Parcel Service of Los Angeles, Inc., testified that

(1) Dec. No. 9313	on Ap. 6781,	Dec. No. 10255	on Ap. No. 7669
" " 10886	" " 7979,	" " 13429	" " " 9934
" " 16425	" " 11122	" " 18047	" " " 12859
" " 18121	" " 12947	" " 18478	" " " 13755
" " 20003	" " 13108	" " 39698	" " " 27755

such requests were infrequent. Mr. Hayes continued by saying that, "Generally, when we explain to these people the highly specialized type of service we are rendering, they are willing to use the service for the occasional delivery that they have been accustomed to use before."

Subsequent to the hearing, applicant requested that its application be amended so that it prays that its operative rights as a common carrier shall entirely exclude service to any retail establishments. Specifically, it requests through this amendment that its certificated operative rights be limited to deliveries from manufacturers, manufacturers' agents, wholesalers, jobbers, and commercial distributors (including return of merchandise originally shipped outbound by such firms).

Attached to this amendment was the affidavit of Mr. Hayes stating:

"From the time of its inception applicants service has fallen within two distinct categories, i.e., deliveries for retail stores and deliveries for 'wholesalers'. (As here used, the term 'wholesaler' is intended to embrace manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors.)

"This 'wholesale' service is and at all times has been a regular common carrier service, open to all firms falling within that category. The retail store phase of the service has, however, been of a specialized, restricted nature as described in the record in this proceeding, and was included in the common carrier certificate originally only because the regulatory situation was then in a state of flux and clear distinction as to the proper sphere of contract carriage as contrasted with common carriage had not yet been drawn.

"The fact is that there is not now, and within memory has not been, any substantial need or demand for common carrier service of the type offered by applicant under its common carrier holding out, other than from the 'wholesale' group. Any need on the part of retail stores has been limited to a need by certain department stores and specialty shops of a specialized contract carrier service tailored to their individual requirements.

"More specifically, the facts are that

1. Applicant does not now receive, and has not received in the past, an average of more than one call per month from firms other than ones included within the 'wholesale' group.
2. That such firms as do call almost invariably are stores having deliveries only rarely and who are not in a position in any event to support the weekly guarantees provided in applicant's tariff, or to support or justify operation of any general common carrier service.
3. That there is now available in the territory, in addition to U. S. Parcel Post, a large number of common carriers, including Pacific Freight Lines, Southern California Freight Lines and Railway Express Agency, Inc., providing a fully satisfactory service for any firms that would be excluded from applicant's certificate under this modification; and
4. That there is no public need or demand, and public convenience and necessity or the public interest

does not require, that applicant's service be extended to firms other than manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors."

From the record in this proceeding, the Commission finds as a fact that the limitation of the common carrier service of applicant to deliveries from manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors, and the return of such merchandise as is offered is in the public interest and is required for the efficient and economical operation of applicant's business and that there is no public necessity or convenience requiring that such common carrier service be extended to retail establishments.

O R D E R

Public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises, and having found the requested amendment to applicant's operative rights to be in the public interest,

IT IS ORDERED that all certificates of public convenience and necessity heretofore issued to, or acquired by, United Parcel-Service of Los Angeles, Inc., and all operating rights thereunder, be, and they hereby are, amended and limited to deliveries from manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors (including return of merchandise originally shipped outbound by such firms).

IT IS FURTHER ORDERED that in all other respects each decision now in force, by which applicant acquired any of its operative rights, be, and it is, unaffected by this Order, and is hereby affirmed.

The effective date of this Order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 10th day of May, 1949.

R. Z. Johnson
Justus F. Casper
Just. Powell
Harold P. Hill
Kenneth Totten
COMMISSIONERS