

ORIGINAL

Decision No. 42885

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
MARGRETTA D. THACKER to acquire by)	
inheritance an automotive freight)	Application No. 29961
line heretofore operated by)	
Percie C. Thacker, deceased.)	

T. A. L. Loretz, for applicant. H. J. Bischoff, for Southern California Freight Lines and Southern California Freight Forwarders, protestants.

O P I N I O N

By Decision No. 31405, dated October 31, 1938, on application No. 22270, this Commission authorized Percie C. Thacker to acquire the highway common carrier certificate of public convenience and necessity granted to Duane D. Stafford and Percie C. Thacker, as copartners⁽¹⁾. Percie C. Thacker having died in December of 1946, and his estate, including said highway common carrier operative right, having been ordered distributed to his wife, Margretta D. Thacker, the latter has applied for authority of the Commission to acquire said certificate of public convenience and necessity.

(1) The certificate authorizes the transportation of "hay, straw, grain, fresh fruits, fresh vegetables, edible nuts, fresh or dried beans, fresh or dried peas,.....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 1 of each year to approximately August 1 of the succeeding year."

The application was protested, on the grounds of abandonment, by Southern California Freight Lines and Southern California Freight Forwarders.

A public hearing was held in Los Angeles on April 28, 1949. Evidence, oral and documentary, having been adduced, the matter was submitted for decision.

Margretta D. Thacker and Percie C. Thacker Jr. testified, and the evidence shows, that Percie D. Thacker Sr. died December 30, 1946, and that the equipment and other assets, including operating rights, were ordered distributed to Margretta D. Thacker, his wife, by a decree of the Superior Court for Imperial County, dated April 8, 1948; that decedent had on file with this Commission a time schedule providing for service on an "on call" basis⁽²⁾; that decedent transported property pursuant to the authority granted to him in the years 1938, 1939, and 1940; that in June of 1940 a fire destroyed decedent's warehouse and two trucks; that after said fire, Percie C. Thacker Sr. confined his transportation services, almost exclusively, to the transportation of property as a radial highway common carrier, or contract carrier, in the Imperial Valley, with an occasional operation as a highway common carrier; that during the years 1941 to 1946 decedent did not actively solicit business as a highway common carrier, and very few shippers called on him for such service; that decedent did not refuse to accept any shipments tendered to him for transportation under his certificate of public convenience and necessity; that since January, 1947,

(2) Freight Time Schedule No. 2, issued Nov. 15, 1938, effective Nov. 18, 1938, issued in compliance with Order in Decision No. 31408, on Application No. 22270.

applicant Margretta D. Thacker and Percie C. Thacker Jr. have continued to operate a transportation business in Imperial Valley under the "Highway Carriers' Act"; that Margretta D. Thacker now owns and operates several trucks, including one tractor and one semitrailer, suitable for the transportation of produce from Imperial Valley to Los Angeles; that applicant is financially responsible and proposes to actively engage in the transportation business as authorized in said certificate when and if authority is granted by this Commission.

We have fully considered the evidence of record in this proceeding and we are unable to find that Percie C. Thacker Sr. abandoned the operative right herein sought to be transferred. The application will be granted.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Margretta D. Thacker be, and she hereby is, authorized to acquire the operative right created by Decision No. 30501, on Application No. 20923, and the public utility property described in the Order Settling Final Account and Decree of Distribution filed as Exhibit A in Application No. 29961.

(2) That Margretta D. Thacker shall comply with the rules of the Commission's General Order No. 80 and Part.IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 17th day of May, 1949.

R. E. Johnson
Justice E. Coe
Justice H. Wallace

COMMISSIONERS