

Decision No. 43308

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PUBLIC FREIGHT SYSTEM, a California )  
corporation, for a Certificate of )  
Public Convenience and Necessity )  
to operate an automobile freight )  
service for the transportation of )  
property as a common carrier between )  
the Los Angeles Metropolitan Area )  
(as that term is herein defined) and )  
Fontana, California, over specified )  
routes, serving all intermediate and )  
certain off-route points. )

Application No. 29726

Glanz & Russell, by Arthur H. Glanz and Theodore W. Russell,  
for applicant; Gordon, Knapp & Hennessy, by Hugh Gordon, for  
Pacific Freight Lines, Pacific Freight Lines Express, and  
Auto Parts Delivery, Inc., W. A. Steizer, for Southern  
California Freight Lines and Southern California Freight  
Forwarders, E. L. H. Bissinger, for Pacific Electric Railway  
Company, Southern Pacific Company and Pacific Motor Trucking  
Company, John E. Hunt, for Barbara R. Walthers and Alfred  
Bellows, doing business as B & W Film Delivery, and  
C. O. Bliss Film Delivery, protestants.

### O P I N I O N

Applicant requests permission to establish service as a  
highway common carrier for the transportation of property between  
all points and places within that territory described in the  
margin<sup>(1)</sup> and hereinafter referred to as the "Los Angeles  
Metropolitan Area," on the one hand, and on the other hand, the

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(1) The application defines the "Los Angeles Metropolitan Area"  
as follows: Beginning at the point at which the westerly bound-  
ary of the City of Los Angeles meets the Pacific Ocean (between  
Sunset Boulevard and Topanga Canyon Road), thence along the  
westerly, northerly, and easterly boundaries of the City of Los  
Angeles to the intersection of the easterly boundary of the City  
of Los Angeles and Foothill Boulevard, thence along Foothill to

San Gabriel and Pomona Valleys, extending as far east as Fontana, California, over the following routes:

(1) Over any and all streets and highways within said "Los Angeles Metropolitan Area," as herein defined, to the intersection of the easterly boundary of said "Los Angeles Metropolitan Area" and U. S. Highway 99, thence over U. S. Highway 99 to Sierra Avenue, thence over Sierra Avenue to Fontana, California, and

(2) Over any and all streets and highways within said "Los Angeles Metropolitan Area," as herein defined, to the intersection of the easterly boundary of said "Los Angeles Metropolitan Area" and Valley Boulevard, thence over Valley Boulevard (also sometimes described in part as Pomona Boulevard) to Pomona, California, thence over U. S. Highway 99 to Sierra Avenue, thence over Sierra Avenue to Fontana, California, and

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(1) Continued:

its intersection with the westerly boundary of the City of Pasadena, thence along the westerly, northerly, easterly, and southerly boundaries of the City of Pasadena to the intersection of the southerly boundary of the City of Pasadena and the easterly boundary of the City of San Marino, thence along the easterly and the southerly boundaries of the City of San Marino to the intersection of the southerly boundary of the City of San Marino and the northeasterly boundary of the City of Alhambra, thence generally westerly along the northeasterly and northerly boundaries of the City of Alhambra to the intersection of the northerly boundary of the City of Alhambra with the easterly boundary of the City of Los Angeles, thence southerly along the easterly boundary of the City of Los Angeles to its intersection with Third Street, thence east along Third Street to the northerly boundary of Montebello, thence along the northerly and northeasterly boundaries of the City of Montebello to the easterly boundary of the City of Montebello, thence in a generally southeasterly direction along a prolongation of the northeasterly boundary of the City of Montebello to the intersection of such line and the San Gabriel River, thence in a generally southerly direction along the San Gabriel River to the Pacific Ocean, thence in a generally westerly and northerly direction along the coast line of the Pacific Ocean to the point of beginning.

(3) Over any and all streets and highways within said "Los Angeles Metropolitan Area," as herein defined, to the intersection of the easterly boundary of said "Los Angeles Metropolitan Area" and Huntington Drive, thence over Huntington Drive to its intersection with U. S. Highway 66, thence over U. S. Highway 66 to Sierra Avenue, thence over Sierra Avenue to Fontana, California.

Applicant requests permission to serve all points intermediate between the easterly boundary of the said "Los Angeles Metropolitan Area," as herein defined, and Fontana, California, along each of the routes above described. In addition thereto, applicant requests authority to serve all off-route points and places lying east of said easterly boundary of said "Los Angeles Metropolitan Area," as herein defined, within a radius of three miles on either side of each of said routes above described and all municipalities, any part of which lie within said lateral area. Applicant also requests authority to serve the off-route points of the California Institution for Men, approximately three miles south of the City of Chino, California. The area to be served east of the "Los Angeles Metropolitan Area" is hereinafter called the "red area."

The application contains no request to be permitted to provide any service beyond its present authorization between points both of which lie within the "Los Angeles Metropolitan Area," as herein defined.

Relative to rates to be charged, applicant proposes that the rates to be assessed for the services hereinabove requested will be the same, with few exceptions, as those established in Highway

Carriers' Tariff No. 2, as amended, issued by the Public Utilities Commission of the State of California; that in the event the authority herein requested is granted, applicant intends to become a participating carrier in Agent Beeler's Local Freight Tariff No. 19-A, California Public Utilities Commission No. 3, as amended, which is presently on file with this Commission and which contains rates, rules, and regulations, with few exceptions, upon the same basis as those proscribed by this Commission in its Highway Carriers' Tariff No. 2 above described.

Applicant proposes to provide the services requested on an overnight basis, making origin-point pickup on one day and destination-point delivery on the following day. It proposes to maintain a minimum of one service daily between all points; freight picked up on one day will be distributed to destination, starting at the beginning of the following business day.

Public hearings were held during January, March, and April in Los Angeles and in various cities in the eastern area proposed to be served. By stipulation of counsel, the proposed service was restricted so as to bar the transportation of household or personal effects commonly used in a household, such as clothing, furniture, furnishings, radios, musical instruments, stoves, and refrigerators, when transported uncrated and unpacked, in connection with so-called household-goods movement.

The transportation of fixtures and equipment, such as, furniture, furnishings, and other appurtenances commonly used in a store, office, museum, institution, hospital or other establishment, when transported uncrated and unpacked, and new household goods, fixtures, and equipment, when not intended for resale and when transported uncrated and unpacked, was also excluded from the offer.

The protest of Mr. Hunt and his clients was withdrawn by reason of applicant's agreement to a restriction on the transportation of motion picture films, motion picture advertising matter, motion picture theatre accessories and electrical fixtures, bulbs and globes, motion picture production machinery and parts, and tickets, when transported to theatres or other similar places of amusement, or in the return direction from such establishments.

The applicant is a California corporation, organized in August, 1946. Mr. J. Nelson Kagarise is the president and principal stockholder, holding approximately 85% of the outstanding stock. The balance of the stock is owned by Clarence W. Wolfe, Robert P. Chicoine, and Bernard C. Brennan, the first two named being actively engaged with Mr. Kagarise in the management of the company's present operations.

Applicant is now conducting several motor carrier operations within the State of California. It holds operating authority as a common carrier of freight under the "grandfather" provisions of the Public Utilities Act authorizing the transportation of commodities, generally, between Los Angeles and the steamship wharves and docks at the Los Angeles Harbor<sup>(2)</sup>. In addition to the common carrier operating authority above described, the applicant holds permits and conducts operations as a radial highway common carrier, a contract carrier, and a city carrier. Applicant has generally restricted its operations under its said permits to the general area which is the subject of the present application.

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(2) See Hodge Transportation System v. Ashton Truck Company, 24 CRC 116; Decision No. 38162; and Decision No. 39188.

Applicant, or its predecessor, has been engaged in business in the general territory, which is the subject of the application, for a considerable period of time. Testimony of the applicant's president as to the length of time applicant has been operating in the territory in question was borne out by statements of a number of shipper-witnesses. These parties indicated they had been using the service of either the applicant or its predecessor in interest for a number of years.

An itemized list of equipment owned and operated by Public Freight, as of January 6, 1948, is reflected in Exhibit 3<sup>(3)</sup>. The entire fleet shown would be available for use in the proposed service, in conjunction with the certificated operations the applicant presently conducts in a portion of the same territory. It has been the practice of the company to add additional units to the fleet as the requirements of traffic dictate. According to the

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(3) This list consists of 37 tractor, truck, or semitrailer units and four converter gears for the conversion of semitrailer units into full trailers. Exhibit 3 reflects eight pickup trucks equipped with both van- and stake-type bodies. The Exhibit also reflects eight of the light pickup- and delivery-type tractors used with semitrailers in the ultimate pickup and delivery of freight. There are three heavier tractors used for accomplishing the line-haul movement between the Los Angeles terminal and the distribution yards. There are 17 semitrailers available for the operation, all of which are 10-ton capacity with over-all length of 22 feet. These semitrailers are, for the most part, stake-body equipment found to be most adaptable to the type of operation which applicant proposes. Two van-type bodies are maintained. While the hearing was in progress, applicant augmented the fleet of equipment available for the proposed service by the addition of three van-type semitrailers, three tractors, and one pickup truck, bringing its total available fleet to 48 units. The bulk of applicant's equipment consists of 1946, 1947, and 1948 models. In addition to the equipment mentioned, applicant has one 35-foot semitrailer which is not licensed but is used in its yard for the storage and handling of odd-sized shipments. All of the semitrailer units, with the exception of the one just mentioned, are adaptable to use in the pickup and delivery of freight when used in combination with the lightweight tractor units.

testimony of Mr. Kagarise, applicant is in a position to add such addition units as they may be needed.

Applicant maintains terminal facilities only in the Los Angeles Area. The terminal is located in the Vernon district. At this terminal are located the general offices of the company, a freight dock, and yard facilities for the parking and storage of equipment. The dock area contains 2501.25 square feet, with 666.75 square feet available as truck loading platform. Applicant maintains, in addition to its dock space, the 35-foot semitrailer with 280 square feet of space, which is held in the yard for use in the transfer of pipe, steel, and other unwieldy objects from one vehicle unit to another. Applicant anticipates that at the outset of its operations it would use the terminal facility now in operation at Los Angeles. Applicant is presently maintaining a truck yard at Pomona. It plans to establish others of similar type at El Monte and in the harbor region, probably at Wilmington. The Los Angeles terminal is equipped to take calls for service and to handle the routing, billing, and distribution of freight for the area to be served.

Pacific Freight Lines contends that the service now rendered in the area in question adequately meets the public needs. It operates a highway common carrier service throughout the entire area proposed to be served by applicant, except a small residential area in the Palos Verdes hills south of Redondo Beach. It renders a daily overnight service between all points proposed to be served by applicant. This service is only a part of its common carrier service which extends to all of the principal cities and communities in Southern California and points to the North.

The equipment owned and operated by Pacific Freight Lines is in excess of 1,200 pieces, of all types, including both van- and open-type bodies, as well as heavy-duty and light tractors and light trucks suitable for pickup and delivery service in areas of congested traffic. At the Los Angeles terminal, 166 units of pickup and delivery equipment are operated to serve the major portion of the "Los Angeles Metropolitan Area" shown on Exhibit 5. At the Wilmington terminal, which is located within the "Los Angeles Metropolitan Area," 10 pickup trucks and 5 line tractors are maintained for pickup and delivery service within the southern portion of the "Los Angeles Metropolitan Area," including the harbor district. At San Gabriel, the company keeps 12 trucks and 3 tractors, all used in pickup and delivery service within the eastern portion of the "Los Angeles Metropolitan Area," and the western portion of the so-called "red area" shown on Exhibit 5. At Pomona, 8 pickup trucks and 4 line tractors are in use, all of which are used to serve points within said "red area." At San Bernardino, 11 pickup trucks and one line tractor are maintained and are used, in part, for the service of the eastern end of said "red area," including Fontana, Crestmore, and Bloomington.

For daily overnight service, rendered by Pacific Freight Lines, between all points in the "Los Angeles Metropolitan Area," on the one hand, and all points in the "red area," on the other hand, freight is picked up in the Los Angeles area throughout the day, either by small pickup equipment or by line equipment, depending upon the size of the shipment, and is brought into the Los Angeles terminal the same day. Freight loaded on the line equipment is immediately dispatched for delivery at points of destination



in the "red area" without rehandling over the Los Angeles dock, delivery being often effected the same day the freight was picked up. The small shipments brought in by pickup equipment are handled over the Los Angeles dock, routed and loaded on line equipment which transports the shipments, during the night, to the substations at San Gabriel, Pomona, and San Bernardino, where the shipments are unloaded and placed on pickup trucks for delivery, commencing as soon as the stores are open to receive shipments at approximately 8:00 to 8:30 a.m. each day. Deliveries from these subterminals are all completed, as a rule, by noon, although occasionally there are a few afternoon deliveries.

Freight moving in the reverse direction, from points in said "red area" to points in the "Los Angeles Metropolitan Area," is handled in exactly the same manner, being picked up in the afternoons, brought to the subterminals for loading on line-haul equipment, transported to the Los Angeles terminal during the night hours, and delivered the following morning. A large portion of the shipments moving from points in the "red area" to Wilmington and vicinity does not go through the Los Angeles terminal but is moved direct from the subterminal in the "red area" to the Wilmington terminal for delivery in the harbor area. Many shipments moving between points in the "Los Angeles Metropolitan Area" and "red areas" are delivered the same day they are picked up. This is done whenever possible to meet special requests of shippers for expedited delivery.

Santa Fe Transportation Company supplies common carrier service, by truck, between the Los Angeles area and San Bernardino, including Fontana and the Kaiser Steel Mill located within the

"red area." This is a direct truck operation not coordinated with Santa Fe Railway service. While there has been an increase in tonnage in all of the areas served, there has been a slight decrease in tonnage handled by Santa Fe Transportation Company. Freight moving from Los Angeles is accorded pickup and delivery service and is delivered to Fontana and Kaiser the following morning. Shipments of 4,000 pounds or more are not handled across the dock at San Bernardino.

The existing service rendered by Southern Pacific Company between the "Los Angeles Metropolitan Area" and the "red area," shown on Exhibit 5, was described by its station supervisor. Stations on the lines of Southern Pacific Company, which are points and places within the "Los Angeles Metropolitan Area" and the "red area," shown on applicant's Exhibit 5, are listed on Exhibit 20. Thirteen stations are within the "red area" and include such more important areas as Pomona, Ontario, Kaiser, El Monte, Alhambra, and San Gabriel. Eighteen are within the "Los Angeles Metropolitan Area." Pickup and delivery service is accorded all L.C.L. shipments, by trucks of Pacific Motor Trucking Company. The pickup and delivery limits for the City of Los Angeles embrace an extensive area including the communities of Vernon, Huntington Park, South Gate, Maywood, and Bell. L.C.L. shipments moving into or from the stations in the "Los Angeles Metropolitan Area" move directly by Pacific Motor Trucking Company trucks from and to the Los Angeles Station, except as to Downey and San Fernando, where the movement is via box car.

In the "red area," Alhambra and San Gabriel are served by direct truck service of Pacific Motor Trucking Company to and from

Los Angeles. L.C.L. shipments between El Monte, in the "red area," and Los Angeles are transported by Pacific Electric, and Bassett and Puente are served from El Monte by Pacific Motor Trucking Company truck. Pomona, Ontario, and Colton are served by box car from and to Los Angeles. Spadra is served by Pacific Motor Trucking Company truck out of Pomona; Chino and Guasti, out of Ontario; and Fontana (Kaiser) and Bloomington, out of Colton.

Pacific Electric Railway Company also serves the two areas above referred to. Stations of Pacific Electric within both areas are shown on Exhibit 22. Fourteen points shown in the "red area" on Exhibit 5 are served by Pacific Electric. These include the larger and more important areas of Sierra Madre, Alhambra, San Gabriel, Arcadia, Monrovia, Azusa, Upland, El Monte, Pomona, Ontario, and Fontana. Twenty-four stations of this carrier are in the "Los Angeles Metropolitan Area," six of which are not shown on Exhibit 5. Pickup and delivery service is rendered out of each station by Pacific Motor Trucking Company trucks or contract equipment operating under its jurisdiction. The pickup and delivery limits within the City of Los Angeles are the same as for Southern Pacific Company, as shown on Exhibit 20. Between stations in the "red area" and Los Angeles, L.C.L. shipments are handled either in box motors or box cars in regular freight service. In a large majority of cases checked by the witness, Nasher, delivery from Los Angeles to receivers in the "red area" was consistently made the following morning.

Southern California Freight Lines renders common carrier service to all the points embraced in the "Los Angeles Metropolitan Area," except Chatsworth and Canoga Park. Service is rendered to

the points of Alhambra, Sierra Madre, San Gabriel, Monterey Park, and Cuasti, which lie within the "red area." In addition to these points, Southern California Freight Lines operates extensively throughout the six Southern California counties.

It maintains two terminals in Los Angeles; one located on Sacramento Street, which embodies an area of approximately five acres. The freight dock at this location contains approximately 20,000 square feet over which moves more than a million pounds of freight per day. Also located at Sacramento Street, is the machine shop owned and operated by Southern California Freight Lines, which occupies approximately 15,000 square feet of space, and the general office building which occupies 10,000 square feet.

The other terminal is located on Alameda Street and occupies approximately seven acres of land, having an office of 6,000 square feet, a shop of 2,500 square feet, and a dock of approximately 30,000 square feet, over which moves an average of 350,000 to 400,000 pounds of freight per day.

This company designates its regular pickup and delivery routes as "city runs" and "short-line runs." The routes which serve the downtown Los Angeles district, including Vernon, are designated as "city runs." Runs made to the outlying points in the "Los Angeles Metropolitan Area," for example, Long Beach, Santa Monica, San Fernando, Pasadena, Montebello, and Bellflower, are classified as "short-line runs." A total of 31 regular pickup and delivery "city runs" are made daily, plus about that many extra runs. A total of 96 regular pickup and delivery "short-line runs" are operated daily.

Out of 572 pieces of equipment owned and operated by the company, 158 trucks are operated daily over regular routes, serving the points in the "Los Angeles Metropolitan Area," save the two exceptions previously mentioned, namely, Chatsworth and Canoga Park. Out of these 158 trucks, four or five are engaged in rendering an overnight service from and to the "red area" points, which are served by this protestant, and two to five trucks are engaged in rendering same-day service from and to said points.

In addition to the transportation service now rendered by the common carriers above described, a large number of permitted carriers, including applicant, are operating within the territory in direct competition with the common carriers. From a tabulation submitted by applicant, compiled from shipping records of eleven business firms in the "red area," it appears that freight shipments have been transported and delivered within that area by 49 different carriers purporting to operate as contract carriers, or radial common carriers, under permits issued by this Commission. There can be no doubt of the reality and magnitude of the service afforded by these carriers.

Applicant produced as witnesses thirty-seven representatives of business concerns which are shippers or receivers of freight within the territory proposed to be served by applicant, and fifteen representatives of Chambers of Commerce which had adopted resolutions supporting the application. Certified copies of eleven such resolutions were received in evidence.

The shipper-witnesses testified, generally, regarding their transportation needs, indicating the frequency and volume of shipments, type of commodities shipped, the carrier or carriers now

used, the adequacy or inadequacy of the existing service to meet their needs, and their reasons for desiring the proposed service of applicant. Almost without exception, these witnesses testified that a consistent overnight service for the transportation of their shipments between points in the "red area" and points in the "Los Angeles Metropolitan Area" was satisfactory and adequate to meet their needs. They did not claim that existing common carriers had refused to carry their freight. It was testified by a considerable number of such witnesses that the service which they have been receiving by existing common carriers they had used had not been a consistent overnight service. This testimony was given without reference to supporting shipping documents or other records indicating the time in transit of shipments transported by the existing carriers. Also, in most instances, such testimony related to some preceding period and was, in almost every instance, vague and without definite statement of time or surrounding circumstances. This testimony must be accorded less weight than the rebuttal by direct testimony of the many witnesses produced by protestant, Pacific Freight Lines, who stated they regularly received overnight delivery, and the testimony of the general manager of that company who had before him the records of the company in directly contradicting this unsupported testimony.

Fifteen of the shipper-witnesses called by applicant stated that they had either oral or written contracts with applicant for the transportation of their commodities. Two others stated that they have used applicant's service, but have no contract therefor. Nothing was indicated by the remaining twenty witnesses as to whether they used applicant's service under contract or

otherwise. It was also testified by many of the shipper-witnesses that they have been, and now are, receiving transportation service by other permitted carriers which, for the most part, has been satisfactory as to the time in transit between the points here involved, but that they would prefer to receive this service by common carriers because it would give assurance of the continuity of service and would eliminate the necessity of executing contracts. It was also testified by applicant's shipper-witnesses, generally, that they favored competition and desired to have available the services of two or more common carriers. The principal reason given for this desire was that shipments which were not ready to be picked up when one carrier called could be delivered to the other carrier whose pickup time might be later, thereby avoiding delay in dispatch of their shipments.

Resolutions by Chambers of Commerce in support of the application were shown to have been adopted, in most instances, at the request, and upon an ex parte showing by the applicant, without notice to any of the protesting carriers. No independent study of traffic or transportation conditions was made by any of the Chambers of Commerce prior to adopting such resolutions, and nothing of a factual character is contained in the resolutions which could invest them with great weight as evidence in support of applicant's proposal.

One hundred twenty-six public witnesses were called by Pacific Freight Lines who gave testimony on behalf of protestants. Of these, four were representatives of Chambers of Commerce, and the remaining one hundred twenty-two were representatives of business concerns located at various points throughout the territory,

and regular users of the transportation service rendered by one or more of protestants, between the points proposed to be served by applicant. These shipper-witnesses, representing industries and commercial firms which regularly ship and receive, or either ship or receive, a great variety of commodities, testified that they receive consistent overnight transportation service by Pacific Freight Lines as to all shipments moving between points in the "red area" and points in the "Los Angeles Metropolitan Area." Dependable pickup and delivery service has been given at hours suitable to their business needs. They further testified that their shipments had been handled carefully with little or no loss or damage in transit, and that the employees of the carrier with whom they dealt were uniformly courteous and accommodating. The service rendered by Pacific Freight Lines was characterized by these witnesses, generally, as "very, very good," "satisfactory," and "adequate to meet their business need and convenience." Consequently, without substantial conflict, the evidence supports a finding that there is, and for the last year or two has been, consistently an efficient overnight service.

Many of these shipper-witnesses called by Pacific Freight Lines testified that they also received satisfactory transportation service from one or more of the other common carriers, protestants herein, now rendering service within the territory proposed to be served by applicant. It was further testified, generally, that the service rendered by the existing common carriers in the field is adequate to meet their business need and convenience, and that, so far as their individual businesses are concerned, there is no need for any additional common carrier service in the transportation of



shipments between points in the "red area" and points in the "Los Angeles Metropolitan Area." On cross-examination, a few of the shipper-witnesses called by protestants stated that they favored competition, as a general proposition, and would like to have a choice between two or more highway common carriers. In the majority of instances, however, the witnesses responded to questions pertaining to these subjects by stating that there was no need for any additional common carrier service and that they would derive no benefit from the service proposed by applicant.

The basic question to be determined in this proceeding is whether the evidence shows that public convenience and necessity require the proposed operation. After a careful study of the record, the Commission is of the opinion and finds that public convenience and necessity do not require the proposed service. Consequently, the application will be denied.

#### O R D E R

Public hearings having been held in the above entitled proceeding, the matter having been submitted on briefs, and the evidence and briefs having been fully considered by this Commission, and basing this order upon the record and the conclusions and findings contained in the foregoing opinion,

IT IS ORDERED that Application No. 29726 be, and it hereby is, denied.

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

Dated at Los Angeles, California, this 20<sup>th</sup>  
day of September, 1949.

Q. E. Anderson  
Justus F. Casner  
Leopoldo L. L. L.  
Harold T. Hild  
Kenneth Lottis  
COMMISSIONERS