

ORIGINAL

Decision No. 42662

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
 into the rates, rules, regulations,)
 charges, allowances and practices) Case No. 4808
 of all common carriers, highway)
 carriers and city carriers relating)
 to the transportation of property.)

Appearances

- James J. Brog, for Metro Parcel Service,
respondent and petitioner.
- Arlo D. Poe, for Motor Truck Association of Southern
California, interested party.
- Preston W. Davis, for United Parcel Service of
Los Angeles, Inc., respondent and protestant.
- Donald Murchison, for Pacific Freight Lines and
Pacific Freight Lines Express, respondents and
protestants.
- W. A. Steiger, for Southern California Freight Lines
and Southern California Freight Forwarders,
respondents and protestants.

SUPPLEMENTAL OPINION

In November, 1947, two copartners rendering local pickup and delivery service for stores on small shipments were authorized to assess rates lower than those established as minimum by Decision No. 31606, as amended (41 C.R.C. 671). The service allegedly differed from that provided by carriers engaged in transportation of general freight, and was similar to that of other parcel carriers theretofore exempted from the minimum rates with respect to small shipments. Similar authority was granted to new owners of the business in March, 1948, and again in September, 1948. Permission is now sought to make another transfer of the authority.¹ Protest having been received, the request was scheduled for hearing.

¹ The original authority was granted to G. K. Caye and D. G. Duncan, doing business as "Pomona Motorcycle Delivery Service," by Decision No. 40969 of November 25, 1947, in this proceeding. It was transferred to G. K. Caye by Decision No. 41301 of March 9, 1948; and to George K. Caye and Carl B. Hoag by Decision No. 42027 of September 3, 1948. The new owners now seeking to acquire the authority are Harry G. Arnesen and F. Helen Arnesen, doing business as "Metro Parcel Service."

Public hearing was held before Examiner Bryant at Los Angeles on September 7, 1949. Briefs have since been filed, and the matter is now ready for decision.

Five witnesses testified in support of the petition, of whom two were the former owning copartners, two were the husband and wife now acquiring the business, and the fifth was the representative of a retail dry goods store. According to the testimony, Pomona Motorcycle Delivery Service, in the early part of 1947, operated motorcycles with side-car units for the delivery of optical goods and jewelers' supplies from Los Angeles to Pomona, Corona, Riverside, Redlands, San Bernardino, Fontana, Rialto, Upland, Claremont and Ontario. In May, 1947, two trucks were added. The company started transporting office supplies, drugs, leather goods, paper, and various other commodities, and to handle larger shipments as well as parcels. In September or October, 1947, the use of motorcycles was discontinued; and in February, 1948, the fictitious name was changed to Metro Parcel Service. Additional truck equipment was acquired from time to time as the business expanded.

The record develops rather fully the nature of the business now being conducted under the name "Metro Parcel Service." Daily service is rendered, serving the cities and communities of Los Angeles, Pomona, Fontana, Rialto, San Bernardino, Cucamonga, Etiwanda, Alta Loma, Upland, Claremont, Ontario, Corona, Arlington, Riverside, Colton, Loma Linda, Redlands, Glendora, San Dimas, Azusa, Covina, Baldwin Park, Monrovia, El Monte, Arcadia, West Arcadia, Temple City, Monterey Park, and various intermediate points. The company operates a fleet of seven trucks. In the month of August, 1949, it transported about 2,700 shipments, weighing approximately 170,000 pounds. According to a detailed analysis introduced by petitioners in which the

traffic was segregated between "parcel" and "freight" movements, the August shipments were distributed as follows:

	<u>Parcel</u>	<u>Freight</u>	<u>Total</u>
Total Shipments.....	1,724	978	2,702
Total Pounds.....	46,547	123,858	170,405
Av. Lbs. per Shipment.....	27	127	63
Total Revenue.....	\$737	\$1,147	\$1,884
Av. Rev. per Shipment.....	43¢	\$ 1.17	70¢

According to petitioners' witnesses, the sought relief is necessary in order to permit Metro Parcel Service to compete with other carriers, including particularly United Parcel Service of Los Angeles, Inc. (hereinafter called "United Parcel Service"). In a general way, apparently, Metro Parcel Service has been assessing the parcel charges of United Parcel Service or the minimum charges and freight rates of other carriers, whichever results in the lower charge on particular shipments. However, it was not contended that petitioners contemplate maintaining charges identical to those of competitors. Petitioners' witnesses were somewhat indefinite in their understanding of the volume or even of the existence of minimum rates, of the rate levels of other carriers, and of the exact extent to which the sought rate exemption was required or would be utilized.²

Two witnesses testified on behalf of United Parcel Service, a protestant. One of these was an employee who had made an investigation of the operations of Metro Parcel Service to determine what kinds of traffic were being handled, and what operations generally were being conducted. His testimony consisted principally of a description of the operations as he had observed them on two days in July, 1949. The other witness was the vice president of United Parcel Service. He testified that the term "parcel delivery service" had

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Petitioners need no authority in order to meet the rates of common carriers as published in their tariffs. Other classes of carriers do not publish tariffs; to the extent that exemption authorities permit them to charge less than the established minimum rates, their charges may not be feasibly ascertained by competitors.

come to connote a specialized type of service, involving the assessment of charges on a package basis rather than on a shipment basis, the requirement that all charges be paid by the consignor, the use of shipping manifests rather than individual bills of lading, and to some extent the use of multiple belt conveyors and other streamlined procedures. This witness stated that he did not know of any carrier now exempt from the minimum rates which transported parcels at the parcel rates and heavier shipments at the freight rates, or which otherwise conducted operations in the manner of the petitioners herein.

On brief, United Parcel Service, Pacific Freight Lines, Pacific Freight Lines Express, Southern California Freight Lines and Southern California Freight Forwarders urged that the petition be denied. These protestants argued that the business of Metro Parcel Service is not that of a specialized parcel carrier similar to that of other exempted carriers; that, on the contrary, the business is predominantly that of a light freight carrier; that under alternative application rules and the existing exemption of certain retail deliveries, petitioner already has ample freedom of competitive opportunity; and that it is contrary to the interests of sound regulation to exempt, either wholly or partially, a carrier which is engaged to a substantial extent in general freight hauling in competition with carriers subject to minimum rates. These protestants asserted further that petitioners' services appear to be those of an unauthorized highway common carrier. Therefore, they urged, the Commission should at least withhold the sought rate exemption until it has conducted an independent investigation into lawfulness of the operation.

The Motor Truck Association of Southern California, which appeared as an interested party but did not introduce evidence, argued on brief that exemptions from minimum rate orders should not be

avored, but should be granted only upon convincing proof of conditions necessitating the exemption in the public interest; that exemptions should be limited to classes of commodities or types of service; and that, if the exemption of a named carrier is ever justified it should be limited to those highway common carriers who must publish and observe tariffs. The Association reasoned that the result of the exemption herein proposed would be freedom for this one carrier to offer lower minimum charges than any competing carrier and to discriminate at will between shippers of small lots.

Petitioners, in reply brief, argued that Metro Parcel Service has dedicated its service to parcel delivery traffic as its primary business; that it cannot render a parcel delivery service at minimum charges prescribed by the Commission, because the traffic would not move at such rates; that the existing general exemptions of classes of traffic are not sufficient for its needs; that, in the absence of suitable minimum rates for the delivery of parcels, petitioners should be permitted to assess such charges as they find necessary to meet their competition; and that granting of the sought exemption would not jeopardize other carriers, inasmuch as (a) the general freight carriers do not operate in the parcel transportation field, and (b) petitioners are neither capitalized nor equipped to compete in the true sense with the larger carriers in the parcel service field.

The question herein presented is whether or not the co-partners now acquiring the business known as Metro Parcel Service should be relieved from the necessity of observing established minimum rates for the transportation of shipments weighing 100 pounds or less. Requests for exemption from minimum rates must be decided in accordance with the facts in each case. The general rule is that exemptions are granted where it is shown that the minimum rates

theretofore established are inappropriate or unsuitable for particular traffic, and where timely modification of the rates is impracticable. It is not the purpose of such authorizations to afford a rate advantage to any carrier in the handling of competitive traffic. The exemption of carriers by name is not favored, therefore, but has been sometimes permitted as a matter of expediency where it appeared that other carriers would not be unfairly disadvantaged.

On the present record, petitioners have not shown wherein or to what extent the existing minimum rates are inappropriate or unsuitable for the services which they perform.³ Predecessor owners of Metro Parcel Service were granted rate exemption upon the allegation that their services differed from those provided by carriers engaged in the transportation of general commodities, and were similar to those of other parcel carriers theretofore exempted. Upon the record now developed it is clear that the operations of Metro Parcel Service have been substantially expanded and revised since the Commission first found rate exemption to be justified. Whereas it appeared in 1947 that the traffic consisted generally of shipments weighing 25 pounds or less transported from or to retail stores in the vicinity of Pomona, daily service is now rendered over most of the area extending from Los Angeles to San Bernardino, and the average weight per shipment exceeds 60 pounds. A substantial portion of the traffic is in shipments weighing several hundred pounds or more. Although petitioners unquestionably handle a great many parcels, their current operations as a whole do not appear to be those of a "parcel-delivery" carrier as that term has been applied heretofore to exempted

3

For much of the traffic handled by Metro Parcel Service no minimum rates have been prescribed; and on traffic subject to minimum rates petitioners are privileged to meet tariff rates of common carriers where lower. The established minimum rates are stated in cents per 100 pounds, varying with weight of the shipment, length of the haul, and classification of the commodities. They are subject to a minimum charge of 49 cents for shipments weighing 25 pounds or less, and to minimum charges of 62 cents, 75 cents or 87 cents for various heavier weights up to 100 pounds.

carriers. Moreover, the evidence indicates that Metro Parcel Service would enjoy a rate advantage over other carriers on competitive traffic if the exemption now sought were granted.

Upon careful consideration of all of the facts and circumstances of record, it is concluded that the petitioners herein have not shown that their operations meet the requirements for authorized departure from the established minimum rates. The petition will be denied.

O R D E R

Public hearing having been had in the above-entitled proceeding, and based upon the evidence received at the hearing and upon the findings and conclusions set forth in the preceding opinion,

IT IS HEREBY ORDERED that the petition filed in Case No. 4808 on June 27, 1949, by Harry G. Arnesen and F. Helen Arnesen, doing business as Metro Parcel Service, be and it is hereby denied.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 13th day of December, 1949.

R. E. Anderson
Justice F. Casper
Dr. H. Russell
Harold P. Kula
Herbert W. Pitter
 Commissioners