

Decision No. 43969**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ARTHUR D. PAXTON, doing business as)
 PAXTON TRUCK COMPANY, for a certi-)
 ficate of public convenience and)
 necessity to operate service as a)
 highway common carrier for the)
 transportation of iron and steel)
 articles and other specified com-)
 modities between San Francisco,)
 Marysville, Los Angeles, San Diego,)
 San Ysidro, Calexico, and various)
 other and intermediate and off-route)
 points.)

Application No. 30511

As Amended

Arlo D. Poe and Ivan McWhinney for applicant. Donald Murchison for Pacific Freight Lines and Pacific Freight Lines Express; E. L. H. Bissinger and William Meinhold for Southern Pacific Company, Pacific Motor Trucking Company and Pacific Electric Company; William Meinhold for San Diego and Arizona-Eastern Railroad Company; John B. Kramer by Robert W. Walker for The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company; Willard S. Johnson for Hills Transportation Company and J. A. Nevis, dba Joe A. Nevis Trucking Company; Lloyd R. Guerra for Western Truck Lines Ltd; W. A. Steiger for Southern California Freight Lines and Southern California Freight Forwarders; Bart F. Wade and William P. Wells for Asbury Transportation Company; Joe West for Needles Trucking Service, protestants; and Glanz & Russell by Arthur H. Glanz for L. L. Mockenhaupt, dba Victorville-Barstow Truck Company, and Northern Transportation Company, interested parties.

O P I N I O N

The applicant, doing business under the firm name of Paxton Truck Company, and having his principal place of business in the County of Los Angeles, California, has been engaged in the trucking business for several years carrying heavy iron and steel articles and other heavy freight as hereinafter more fully

described. Applicant operates terminals, one on 81st Street, in the County near the City of Los Angeles, and the other at Fontana, California. The equipment used in applicant's business consists of 85 tractors, trailers, trucks, and other equipment of the open type used in transporting heavy and bulky freight. This equipment is in good condition and is operated by skilled and well-trained personnel.

During the first six months of 1949, a total of 281 customers were served by applicant. These customers were in various enterprises, but primarily they were manufacturers and jobbers of steel products as well as steel fabricators. The largest volume of his business consisted in carrying freight to or from the Kaiser Steel Corporation, located near Fontana.

This business showed an operating revenue of \$354,755.96 for the period commencing January 1, 1949, and ending August 31, 1949. The net income from this operation was \$8,397.05 after deducting the expenses for the period in the sum of \$346,358.91. Applicant has been carrying on this operation under permits from this Commission. Also, he holds common carrier certificate No. 13522, issued by the Interstate Commerce Commission, which authorizes him to haul the same commodities between points and places in California south of a line through King City, Fresno, and Bishop to the Mexican Border.

The application, as amended, alleges that, owing to the volume of traffic transported by him, the number of shippers served, and the nature and extent of his present operations, some question exists concerning the status of applicant as a highway carrier. He further asserts therein that he is desirous of eliminating any such

question by making his transportation services available to the public generally.

Public hearings were held in Los Angeles and San Francisco before Examiner Rowe, on October 3 and 4, 1949, and on November 21, 1949, and January 26, 1950. The matter is now submitted and is ready for decision.

Fifteen shipper witnesses testified as to the need for the offered common carrier service. They were unanimous in their praise of the manner in which applicant had handled their shipments of heavy freight. Much of the freight offered by the firms represented by these witnesses, especially that destined to job and building sites, as well as to and from mines and oil wells, did not lend itself to being transferred en route to other carriers. Such shipments also frequently moved to unpredictable off-highway points. The bulk of the tonnage moving to industrial and manufacturing concerns will move over U. S. Highways 99 or 101, and the remainder of such movement will go over the highways hereinafter named, with off-highway movements of only a few miles.

Two of the protestants offered evidence in opposition to the granting of operating rights to applicant. The superintendent of transportation for Asbury Transportation Company testified as to the operative rights and their exercise in transporting oil-well supplies, materials, and commodities. Likewise, the operative rights and operations of Western Truck Lines were described. Three witnesses testified, in said protestant's behalf, stating that they had used Western Truck Lines and found its services satisfactory. Specific reference was made to the operations between Los Angeles and San Francisco and between Los Angeles and the area commencing

with Indio to Blythe and along U. S. Highway 395 as far north as Bishop. These three witnesses expressed the opinion that Western Truck Lines had adequately and satisfactorily handled their freight requirements. It was stipulated by counsel that three other witnesses, if produced, would have testified substantially to the same effect as the three produced.

The record does not show that a denial of the application would benefit any of the protestants nor that the granting of this application would be materially harmful to them. Applicant is seeking that authority which is required by the character of his present operations. Applicant has proved that there is a public need and convenience for the continuance of the service he has been rendering. Consequently, having considered the entire record in this proceeding, we find as a fact that public convenience and necessity require that a certificate be granted to Arthur D. Paxton as hereinafter set forth. It is the opinion of the Commission, from the evidence of record, that operating rights should be restricted to ten miles on either side of the U. S. highways over which rights are to be granted, except for deliveries to and from job sites, such as construction projects, oil, gas, or water wells, or mines, which may be as far as fifty miles off the named highways. Also, in addition to the restrictions, which applicant expresses a willingness to accept, and the ten miles of highway limitation to other than job sites, the Commission is of the opinion that it should be limited, as urged by protestants, to the use of open equipment which alone is presently employed. If, as contended by applicant, the use of closed equipment should become feasible in

the future in handling the type of freight for which rights are now granted, it would appear appropriate for applicant to then request the removal of this restriction.

Arthur D. Paxton, an individual, doing business as Paxton Truck Company, is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing, for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Public hearings having been held in the above-entitled proceeding, the evidence having been fully considered, and basing this order upon the record and upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Arthur D. Paxton, doing business as Paxton Truck Company, authorizing him to operate as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of:

- (a) Iron and steel, and iron and steel articles;
- (b) Aluminum, brass, bronze, copper, lead, magnesium and zinc, in a form no further finished or manufactured than bars, sheets, or shapes;
- (c) Fire brick, fire clay, chrome ore and mortar;
- (d) Heavy machinery and heavy electrical equipment;
- (e) Oil, water, or gas well outfits and supplies, and other articles, viz.:

Adapters, Casing,	Jacks, Oil Well Pumping, or Parts,
Adjusters and Boards,	Jacks, Oil, Water, or Gas Well Tool,
Arms, Cants, Handles or Pins,	Joints, Rotary Tool and Sucker
Band, Bull or Calf Wheel, wooden,	Rod,
Band, Bull or Calf Wheels or Tug	Liners, Polished Rod,
Pulleys,	Lines, Measuring,
Barrels, Pump Working (Well Pump	Machines, Oil, Water, or Gas Well
Cylinders),	Rotary Drilling, and Parts
Bits, Drilling,	thereof,
Blocks, Casing, Crown or Under-	Mud Mixer Parts, Iron,
reamer Dressing,	Oil Well Pulling Machines,
Boiler Flues,	Outfits, Wire Line Pumping,
Boiler Tubes,	Packers,
Boxes, Oil, Water, Gas Well	Pipe or Tubing, iron or steel:
Derrick or Stuffing,	Cast or Wrought,
Caps, Sand Line,	Plate or Sheet,
Casing Shoes;	Well casing or well drilling,
Castings, Swing Post,	Plugs, Cementing,
Catchers, Tubing,	Plugs, Dry Hole,
Clamps, Disconnecting, Drilling,	Powers, Pumping,
Drive or Gas <i>Packing,</i>	Protectors, Box and Pin,
Clamps or Grips, Anchor, <i>Casing,</i>	Pull Rod Blocks, Wooden,
Pipe, Polished Rod or Pull <i>Rod,</i>	Rams, Bit,
Compounds, Oil Well Drilling,	Reels, Measuring,
mud,	Rig Irons, <i>including necessary</i>
Countershafts, Oil Well,	quantity of nails,
Derrick Cranes or Derricks,	Rings and Wedges,
including necessary equipment	Rods, Polished or Valve,
of ladders,	Rods, Sucker,
Drill Bitheads,	Saddles, Jack,
Elevators, Pipe or Sucker Rod,	Sand Reels, Chain Driven,
Fittings, Pipe, iron or steel,	Savers, Oil,
cast, wrought, plate or sheet,	Spiders, Liners or Slips,
Forges, Oil, Water, or Gas Well	Spudding Shoes and Rings,
Derrick,	Stirrups, Disconnecting,
Gauges, Bit,	Swabs, Steel and Rubber,
Grate, Bars,	Swivels, Hydraulic Rotary,
Guides, wire lines, wooden,	Temper Screws and Parts,
Heads, Control Casing, Drive	Templates, Box and Pin,
Pipe or Casing,	Thief Hole Covers, Iron,
Hooks, Casing, Sucker Rod,	Tongs, Pipe, weighing ea
Throwoff or Tubing, or Links,	pounds or over,

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- (a) Iron and steel, and iron and steel articles;
- (b) Aluminum, brass, bronze, copper, lead, magnesium and zinc, in a form no further finished or manufactured than bars, sheets, or shapes;
- (c) Fire brick, fire clay, chrome ore and mortar;
- (d) Heavy machinery and heavy electrical equipment;
- (e) Oil, water, or gas well outfits and supplies, and other articles, viz.:

Adapters, Casing,	Jacks, Oil Well Pumping, or Parts,
Adjusters and Boards,	Jacks, Oil, Water, or Gas Well Tool,
Arms, Cants, Handles or Pins,	Joints, Rotary Tool and Sucker
Band, Bull or Calf Wheel, wooden,	Rod,
Band, Bull or Calf Wheels or Tug	Liners, Polished Rod,
Pulleys,	Lines, Measuring,
Barrels, Pump Working (Well Pump	Machines, Oil, Water, or Gas Well
Cylinders),	Rotary Drilling, and Parts
Bits, Drilling,	thereof,
Blocks, Casing, Crown or Under-	Mud Mixer Parts, Iron,
reamer Dressing,	Oil Well Pulling Machines,
Boiler Flues,	Outfits, Wire Line Pumping,
Boiler Tubes,	Packers,
Boxes, Oil, Water, Gas Well	Pipe or Tubing, Iron or steel:
Derrick or Stuffing,	Cast or Wrought,
Caps, Sand Line,	Plate or Sheet,
Casing Shoes;	Well casing or well drilling,
Castings, Swing Post,	Plugs, Cementing,
Catchers, Tubing,	Plugs, Dry Hole,
Clamps, Disconnecting, Drilling,	Powers, Pumping,
Drive or Gas Packing,	Protectors, Box and Pin,
Clamps or Grips, Anchor, Casing,	Pull Rod Blocks, Wooden,
Pipe, Polished Rod or Pull Rod,	Rams, Bit,
Compounds, Oil Well Drilling,	Reels, Measuring,
mud,	Rig Irons, including necessary
Countershafts, Oil Well,	quantity of nails,
Derrick Cranes or Derricks,	Rings and Wedges,
including necessary equipment	Rods, Polished or Valve,
of ladders,	Rods, Sucker,
Drill Bitheads,	Saddles, Jack,
Elevators, Pipe or Sucker Rod,	Sand Reels, Chain Driven,
Fittings, Pipe, iron or steel,	Savers, Oil,
cast, wrought, plate or sheet,	Spiders, Liners or Slips, or
Forges, Oil, Water, or Gas Well	Spudding Shoes and Rings,
Derrick,	Stirrups, Disconnecting,
Gauges, Bit,	Swabs, Steel and Rubber,
Grate, Bars,	Swivels, Hydraulic Rotary,
Guides, wire lines, wooden,	Temper Screws and Parts,
Heads, Control Casing, Drive	Templates, Box and Pin,
Pipe or Casing,	Thief Hole Covers, Iron,
Hooks, Casing, Sucker Rod,	Tongs, Pipe, weighing each 20
Throwoff or Tubing, or Links,	pounds or over,

<p>Tools, Oil, Water, or Gas Well Drilling or Fishing (Covers only such tools as are commonly known and recognized as Oil, Water, or Gas Well Drilling or Fishing Tools and as used under the surface of the ground in the process of drilling an oil, water, or gas well), Tubs, Oil, Water, or Gas Well cooling, Underreamers, Valves, Pump Working Barrel, Wagons, Casing or Bit, Wobblers, Wrenches, Drive Clamp, Sucker Rod or Swivel, also Tool Wrenches weighing each 20 pounds or over, Air Compressors, Anvils,</p>	<p>Atmospheric Water Cooling Towers, Belts, Blacksmith's Rotary Blowers, Boiler Fronts, Boiler Parts, Boilers, including Fire Clay for setting, Electric Generators, Engines, Power Pumps, Pull Rods, Rope, Smokestacks, Steam Boiler Trucks or Running Gears, knocked down, Tanks, iron or steel, Tools, Mechanics', second-hand (used), Valves, iron or brass, Wire Rope.</p>
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- (f) Machinery, equipment, materials and supplies (other than commodities described in paragraphs (a) to (e), inclusive) used in the drilling, maintenance or operation of wells for the production of water, petroleum or natural gas, when moving to or from the drilling or well site;
- (g) Construction equipment, materials and supplies, and contractors' equipment, (other than commodities described in paragraphs (a) to (e), inclusive) used in the construction or erection of bridges, power transmission lines and production projects, sewer projects, aqueducts, pipe lines, oil refineries or processing plants, fabricated steel frame buildings, or other steel structures, when moving to or from the job site;
- (h) Empty containers and pallets, used, and returning;

between the points and over and along the routes as follows:

1. U. S. Highway 101 and 101-A between San Francisco and the Mexican border;
2. U. S. Highway 99 between Marysville and the Mexican border;
3. U. S. Highway 395 between San Diego and the Nevada state line;

4. U. S. Highway 40 between San Francisco and the Nevada state line;
5. U. S. Highway 50 between San Francisco and Stockton;
6. U. S. Highway 91 between Barstow and the Nevada state line;
7. U. S. Highway 66 between Los Angeles and the Arizona state line;
8. U. S. Highway 60 between Los Angeles and the Arizona state line;
9. U. S. Highway 80 between San Diego and the Arizona state line;

serving all intermediate points along said routes and all points within fifty (50) miles on either side of said routes, and all points within a radius of fifty (50) miles of San Francisco and within a radius of five (5) miles of Marysville, traversing any and all public highways, as necessary or convenient, in serving such off-route points, subject to the following restrictions:

- (a) Applicant shall not transport any shipment which shall carry a charge lower than that applicable to a shipment of not less than 4,000 pounds.
- (b) Applicant shall not transport any shipment in a van or closed-type equipment.
- (c) No service shall be rendered in the transportation of shipments having both origin and destination north of a straight line extending from the Pacific Ocean to the California-Nevada state line passing through King City and Madera, or any shipment having origin in Pittsburg.
- (d) Except for deliveries to and from job sites such as construction projects, oil, gas, or water wells, or mines, no freight shall be transported in excess of ten miles on either side of any of the routes over which this certificate authorizes applicant to operate.

(2) That, in the operation of the highway common carrier service pursuant to the foregoing certificate, Arthur D. Paxton, doing business as Paxton Truck Company, shall conform with and observe the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, Arthur D. Paxton shall conduct said highway common carrier operation over and along the following routes:
 1. U. S. Highway 101 and 101-A between San Francisco and the Mexican border;
 2. U. S. Highway 99 between Marysville and the Mexican border;
 3. U. S. Highway 395 between San Diego and the Nevada state line;
 4. U. S. Highway 40 between San Francisco and the Nevada state line;
 5. U. S. Highway 50 between San Francisco and Stockton;
 6. U. S. Highway 91 between Barstow and the Nevada state line;
 7. U. S. Highway 66 between Los Angeles and the Arizona state line;
 8. U. S. Highway 60 between Los Angeles and the Arizona state line;
 9. U. S. Highway 80 between San Diego and the Arizona state line;

...serving all intermediate points along said routes and all points within fifty (50) miles on either side of said routes, and all points within a radius of fifty (50) miles of San Francisco, and within a radius of five (5) miles of Marysville, except as above restricted, traversing any and all public highways, as necessary or convenient, in serving such off-route points. Service to off-route points shall be conducted over and along the most appropriate route or routes.

(3) Except as herein authorized, Application No. 30511, as amended, is hereby denied.

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

Dated at San Francisco, California, this 21st day of March, 1950.

R. Z. Johnson
Justin F. Cramer
Joseph L. Powell
Harold Kils
Herbert Patten
COMMISSIONERS