

**ORIGINAL**Decision No. 44558

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 CALIFORNIA CARTAGE COMPANY, INC., a )  
 corporation, for a certificate of )  
 public convenience and necessity to )  
 operate service as a highway common )  
 carrier for the transportation of )  
 general commodities, with certain )  
 exceptions, between Los Angeles and )  
 vicinity, on the one hand, and San )  
 Diego, North Island, Coronado, )  
 National City, Chula Vista, Lemon )  
 Grove, La Mesa and El Cajon, on the )  
 other hand. )

Application No. 30318

Arlo D. Poe for applicant. H. T. Bischoff and W. A. Steiger for Southern California Freight Lines and Southern California Freight Forwarders; Glanz & Russell by Arthur H. Glanz for San Diego Forwarding Company; Donald Murchison for Pacific Freight Lines and Pacific Freight Lines Express; William F. Brooks for The Atchison, Topeka & Santa Fe Railway Company, Santa Fe Transportation Company, and Railway Express Agency, Inc.; pro-  
 testants.

O P I N I O N

California Cartage Company, Inc., a California corporation, applicant herein, is now engaged in the business of transporting property as a city, contract, and radial highway common carrier, principally in the Los Angeles commercial area and the cities and towns contiguous to, or in the vicinity of, said area. It also has limited interstate rights between Los Angeles and Los Angeles Harbor and in the surrounding area. Applicant performs a considerable amount of local drayage business in the Los Angeles area and also in the San Diego area. Applicant commenced

operations in 1944 and has since developed, in addition to its local business, an intercity transportation business between Los Angeles and San Diego <sup>(1)</sup>. Applicant also provides pickup and delivery service in the Los Angeles and San Diego areas for California Cartage Express, a wholly owned "express corporation" operating between Los Angeles and San Diego. The express company uses The Atchison, Topeka & Santa Fe Railway Company as its underlying carrier.

By this application, authority is sought to establish and operate a service as a highway common carrier for the transportation of general commodities <sup>(2)</sup> between points and places within the Los Angeles territory <sup>(3)</sup>, on the one hand, and the cities and communities of San Diego, North Island, Coronado, El Cajon, La Mesa, Lemon Grove, National City, and Chula Vista, on the other hand; over and along U. S. Highways 101 and 101-A, but not serving any intermediate points <sup>(4)</sup>.

- 
- (1) It appears from the evidence that the Los Angeles-San Diego business began with an airplane-parts contract carrier operation, conducted by applicant's predecessor, and has expanded to a general commodity highway common carrier service by reason of its frequency and the number of shippers accommodated.
- (2) Except livestock, uncrated used household goods and office furniture, commodities requiring special equipment, commodities in bulk, articles of extraordinary value, dangerous explosives, and commodities injurious or contaminating to other lading.
- (3) The Los Angeles Territory is practically the same as described in Item 270-A of Highway Common Carriers' Tariff No. 2. Generally, it is bound on the south by the Pacific Ocean; on the west by the Pacific Ocean, Sunset and Sepulveda Boulevards; on the north by San Fernando Road and the northerly city limits of Burbank, Glendale, and Pasadena; and on the east by Rosemead and Lakewood Boulevards.
- (4) Applicant does not propose to transport property, as a highway common carrier, between points within the Los Angeles Territory nor between the cities and communities in the San Diego area.

The rates, rules and regulations proposed to be assessed and observed by applicant in the operation of the proposed service will be based primarily upon the minimum rates, rules and regulations prescribed by the Commission in Highway Carriers' Tariff No. 2, with certain modifications.

Public hearings were held at Los Angeles and San Diego. The matter was submitted on briefs which have been filed.

The evidence shows that applicant proposes a daily service in both directions between the Los Angeles area and the San Diego area. Southbound departure will be at approximately 7:00 p.m. and arrival at San Diego at 11:00 p.m.; northbound departure and arrival are proposed for 12:00 midnight and 4:00 a.m., respectively. Pickup and delivery service will be provided throughout the areas proposed to be served. Applicant maintains terminals at Los Angeles and San Diego consisting of office, dock, and yard facilities, and owns 96 pieces of equipment, some of which are based at San Diego <sup>(5)</sup>. Fifty-four persons are employed at Los Angeles and sixteen at San Diego.

As of September 30, 1949, applicant had assets of \$161,852.70, subject to liabilities of \$128,710.99; its capital was \$15,000 and earned surplus was \$18,141.71. Net income for the first nine months of 1949 amounted to \$7,177.61. Applicant's annual gross revenue for the years 1945-1948, inclusive,

---

(5) Applicant's equipment consists of 20 stake trucks, 5 van trucks, 23 tractors, 23 stake trailers, 6 van trailers, 5 dollies, 2 small pickup trucks, 4 sedans, 2 coupes. The stake and van trucks are used in performing pickup and delivery service.

averaged in excess of \$360,000. For the nine months' period ending September 30, 1949, the gross revenue was \$297,559.09.

Applicant's tonnage and revenue for property transported between Los Angeles and San Diego in 1948 were 14,545,116 pounds and \$94,881.61, respectively. For nine months ending September 30, 1949, the tonnage and revenue were 10,812,451 pounds and \$71,661.37<sup>(6)</sup>.

The record shows that, in the month of April, 1949, applicant transported 749 shipments southbound and 251 shipments northbound between the Los Angeles and San Diego areas. For the month of August, 1949, the number of shipments was 896 southbound and 254 northbound. The average weight of the April shipments was 1158 pounds and of the August shipments, 903 pounds. Southbound shipments consisted of general dry freight items such as airplane parts, hardware, electrical appliances, tires and auto accessories, paint, paper, steel bars, and pipe. Northbound shipments are predominantly airplane parts, accessories, and supplies<sup>(7)</sup>.

---

(6) California Cartage Express transported between said cities 12,997,584 pounds in 1948 and 9,676,697 pounds in the first nine months of 1949. The revenue was \$111,102.37 and \$75,140.58 for the respective periods. Applicant's president testified that California Cartage Express will continue to use The Atchison, Topeka & Santa Fe Railway Company as the underlying carrier provided overnight service and satisfactory rate structures are continued.

(7) Exhibits Nos. 9 and 10 show, in detail, the origin, destination, weight, and commodity transported in April and August of 1949. Said exhibits were accepted to show the volume and character of the business, and not as evidence of need for the proposed service.

Twenty-eight shipper witnesses testified that their respective companies have been using and need applicant's proposed service between the Los Angeles and San Diego areas. Said witnesses represented manufacturers, jobbers or wholesalers of such products as aircraft, aircraft accessories and supplies, electrical supplies, radio and television sets, pharmaceutical supplies, chemicals, liquors, paints, automobile parts and accessories, hardware, steel, and glass.

Southern California Freight Lines, Pacific Freight Lines, and Santa Fe Transportation Company, protestants, are highway common carriers now authorized to operate between Los Angeles and San Diego. The latter company has only recently been granted a certificate authorizing it to perform a direct truck service between said points. No evidence was offered by the Santa Fe Transportation Company or The Atchison, Topeka & Santa Fe Railway Company upon which to support an adverse ruling to applicant's proposal .

---

(8) Sterling Transit Company recently was authorized to render a highway common carrier service between Los Angeles and San Diego, but did not participate in this proceeding. San Diego Forwarding Company and Railway Express Agency, protestants, offered no evidence. United Parcel Service and Bekins Van Lines did not take part in this proceeding.

Protestants Southern California Freight Lines and Pacific Freight Lines are two of the largest highway common carriers operating in Southern California and the two principal truck operators between the Los Angeles and San Diego areas. Each of said companies owns or controls an affiliated "express corporation" and said express corporations also are protestants in this proceeding. Southern California Freight Lines is the underlying carrier for Southern California Freight Forwarders, and Pacific Freight Lines is the underlying carrier for Pacific Freight Lines Express. Substantially all the traffic moved by said two combinations of carriers, between the Los Angeles and San Diego areas, is moved by the express companies, with the highway common carrier providing the underlying service.

The evidence shows that protestants Southern California Freight Lines and Pacific Freight Lines and their affiliated "express companies" have the facilities and ability to perform, and have been performing, a satisfactory and adequate transportation service between the Los Angeles and San Diego areas for that portion of the public which they have been serving. The record also shows that the revenue received by protestants Southern California Freight Lines and Southern California Freight Forwarders, for the years between 1940-1949, has increased, percentage-wise, more than did the population and employment in the Los Angeles and San Diego areas (Exhibits Nos. 18 and 32).

The principal protestants, Southern California Freight Lines and Pacific Freight Lines, contend, in effect, that, because of their certificated authority, relatively greater

capacity (size) to render the service as herein proposed, and the satisfactory and adequate service being performed, the application should be denied.

There is no evidence in the record to show or indicate that applicant, if permitted to operate as a highway common carrier, will divert traffic from any of the protestants. The evidence shows that applicant will be able to operate upon a compensatory basis with its present business. Nor does the record show how or to what extent the protestants or the public would benefit by a denial of this application. No evidence was offered by protestants which would support a conclusion that their present revenues would suffer appreciably if applicant obtained a certificate. Notwithstanding protestants' apparently satisfactory service, capacity to expand, growth, and large volume of business they perform between said cities, they have not been able to draw to themselves a considerable amount of the transportation business which is now being conducted by applicant and other carriers operating between said territories.

We believe the evidence in this proceeding shows a degree of necessity justifying the establishment of an additional highway common carrier service, and, having carefully considered the entire record, find that public convenience and necessity require that the application be granted.

California Cartage Company, Inc., a corporation, 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 Commission being fully advised in the premises, and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to California Cartage Company, Inc., a corporation, authorizing it to operate and establish a service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property between the Los Angeles Territory, as now described in Item 270-A of Highway Carriers' Tariff No. 2, on the one hand, and an area consisting of the cities and communities of San Diego, North Island, Coronado, National City, Chula Vista, Lemon Grove, La Mesa, and El Cajon, on the other hand, subject to the following restrictions and conditions:

- (a) Applicant shall not serve any intermediate points.



- (b) Applicant shall not serve between points within the Los Angeles Territory nor between any of the cities or communities of San Diego, North Island, Coronado, National City, Chula Vista, Lemon Grove, La Mesa, and El Cajon.
- (c) Applicant shall not transport livestock, uncrated used household goods and office furniture, commodities requiring special equipment, commodities in bulk, articles of extraordinary value, dangerous explosives, and commodities injurious or contaminating to other lading.

(2) That, in the operation of the highway common carrier service pursuant to the foregoing certificate, California Cartage Company, Inc. 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, California Cartage Company, Inc. shall conduct said highway common carrier operation over and along the following described routes:
  - U. S. Highway No. 101 between Los Angeles and San Diego, and
  - U. S. Highway No. 101-A between the Los Angeles Harbor District and the junction of U. S. Highway No. 101 and U. S. Highway No. 101-A at Doheny Park.

Within The Los Angeles Territory and the named cities and communities in San Diego County, over and along the most appropriate route or routes.

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

Dated at San Francisco, California, this 18th day of July, 1950.

R. Z. [Signature]  
Justice F. [Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
 COMMISSIONERS