

ORIGINAL

Decision No. 15247

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 ) Application No. 29726  
 a common carrier between the Los Angeles )  
 Metropolitan Area (as defined) and )  
 Fontana, California, over specified )  
 routes, serving all intermediate and )  
 certain off-route points. )

Glanz & Russell, by Arthur H. Glanz and Theodore W. Russell for applicant; Gordon & Knapp, by Hugh Gordon, for Pacific Freight Lines, Pacific Freight Lines Express, and Auto Parts Delivery, Inc., W. A. Steiger, 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, Robert W. Walker and Frederick A. Jacobus for Santa Fe Railroad Company and Santa Fe Transportation Company, protestants.

OPINION AFTER REHEARING

Public Freight System, a California corporation, by Decision No. 43308, was, on September 20, 1949, denied a certificate to operate a highway common carrier freight service for the transportation of general commodities between all points in the so-called Los Angeles Metropolitan Area, on the one hand, and on the other hand, points in the San Gabriel and Pomona Valleys, extending as far east as Fontana.

Pursuant to petition of applicant, rehearing was granted December 20, 1949, by order of the Commission. Public hearings

were held before Examiner Rowe on March 6, 7, and 14, 1950, and the matter was argued on April 14, 1950, at which time the application was again submitted for decision.

The record after rehearing reveals that conditions have arisen which compel a partial granting of applicant's prayer. The most important factor is that several truck operators who previously have been carrying freight, as permitted carriers, from points in the San Gabriel and Pomona Valleys through Los Angeles to points as far north as San Francisco and Sacramento, have ceased entirely their permitted operations in those valleys after the Commission granted certificates to them authorizing them to act as common carriers only between Los Angeles and northern points. This consists largely of freight which has a prior or subsequent haul to or from a point north of Los Angeles and which must now be carried by the remaining carriers operating in these valleys. A part of this business has gone to protestant Pacific Freight Lines, but the certificated carriers operating between Los Angeles and northern points wish to have this freight handled by a carrier with whom they are not in competition. Because Public Freight System does not have operating rights north of Los Angeles, these newly certificated carriers would like to enter into joint rates with applicant.

The representative of the largest shipper operating at Kaiser in the eastern service area, who testified at the rehearing, is of the opinion that there is a need for a means of shipping freight to and from points north of Los Angeles by a common carrier or by a combination of such carriers serving under joint rates

other than those common carriers presently serving in said eastern service area. A witness representing a large manufacturer in the Pomona district expressed a similar opinion. Several witnesses representing carriers who received operating rights between San Francisco and other northern points, on the one hand, and Los Angeles, on the other hand, without the additional right of serving points east of Los Angeles, by the so-called Savage decision (Decision No. 43003) expressed the opinion that the only way they could retain customers located east of Los Angeles would be by entering into a contract providing for joint rates with some certificated common carrier who was not their competitor in the northern area.

The reluctance of protestant Pacific Freight Lines to "short haul" freight will, it is felt by such carriers, prevent shippers east of Los Angeles from using the services of any of those common carriers recently certificated by the "Savage decision" unless some carrier, who does not have operating rights north of Los Angeles, should receive a certificate authorizing operating rights between Los Angeles and points to the east thereof.

It is the opinion of the Commission, based upon the record in this proceeding, and consequently it is found as a fact, that there is public convenience and necessity requiring the establishment and operation by applicant of a highway common carrier freight service between the Los Angeles Metropolitan Area as defined in the application, on the one hand, and Fontana (Kaiser), on the other hand, and the intermediate points of El Monte, Pomona, and Ontario, with the restriction that only such freight shall be carried as has had a previous, or will have a subsequent, movement to or from some point north of Los Angeles.

The Commission is further of the opinion, based upon the record in this proceeding, and consequently finds as a fact that,

except as to the points named in the next preceding paragraph, public convenience and necessity require that the application be denied.

In making the above-stated findings, and in reaching the above-stated conclusions, this Commission has considered the entire record, including that evidence received at the original hearings and that received at the rehearings, as well as the fact that the Commission has recently approved the establishment of joint rates by Savage Transportation Company and E. J. Willig Truck Transportation Co. with Pacific Freight Lines and others in areas including that with which we are here concerned.<sup>(1)</sup> In denying the application in part and granting in part the request for operating rights to applicant, the decision, among other considerations, takes into account the present equipment and financial position and the experience of applicant and of its personnel, as well as the operating rights recently granted to applicant by the Interstate Commerce Commission between Los Angeles and Fontana over and along Valley Boulevard and U. S. Highway 99.

Public Freight System 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.

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(1) Decision No. 45136, dated December 12, 1950, on Applications Nos. 30795, 30796, and 30824.

ORDER AFTER REHEARING

Public hearings having been held in the above-entitled proceeding after rehearing granted, the Commission having fully considered the evidence and briefs filed at the original hearings, together with the evidence received on rehearing and the oral arguments, and basing this order upon the record and 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 Public Freight System authorizing it to operate as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation, between points in Metropolitan Los Angeles, as defined in said Decision No. 43308, on the one hand, and Fontana and the intermediate points of El Monte, Pomona, and Ontario, of general commodities except (1) 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, and except (2) 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, and except (3) 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 authority herein granted shall be limited to the transportation of property which has had a prior movement by a highway common carrier, or will have a subsequent movement by a highway common carrier to or from some point north of Los Angeles.

(2) That, except as granted in ordering paragraph numbered (1) hereof, the application of Public Freight System be, and it hereby is, denied.

(3) That, in providing service pursuant to the certificate hereinbefore granted, applicant shall comply 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 the same at any time, applicant shall conduct operations pursuant to the certificate herein granted, over and along Sierra Avenue and U. S. Highway 99.

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

*P. 2. 23*  
Dated at ~~San Francisco~~ <sup>Los Angeles</sup>, California, this 9th day of January, ~~1950~~ <sup>1951</sup>.

*R. B. Anderson*  
*Justin F. Caswell*  
*Harold P. Hale*  
*Herbert P. Potter*

COMMISSIONERS