

Decision No. 45538

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC FREIGHT LINES, a)
California corporation, for a)
certificate of public convenience) Application No. 30690
and necessity to operate as a)
highway common carrier between)
various points in California.)

Gordon & Knapp, by Wyman C. Knapp, for applicant.
Frederic A. Jacobus for The Atchison, Topeka & Santa Fe Railway
Co. and Santa Fe Transportation Company; H. J. Bischoff for
Southern California Freight Lines and Southern California Freight
Forwarders; and Walt A. Steiger for Southern Pacific Company,
Pacific Motor Trucking Company, and San Diego & Arizona Eastern
Railway Company, protestants. Glanz & Russell, by Theodore W.
Russell, for Harold B. Boyle, doing business as Boyle & Son, and
James Simpson, for Churchill Transportation Company, interested
parties.

O P I N I O N

Pacific Freight Lines, a California corporation, appli-
cant herein, now operates an authorized extensive truck service for
the transportation of general commodities in this state as a highway
common carrier. It also has authority to transport property by motor
vehicle over the public highways of this state as a radial highway
common carrier and contract carrier, and in any city or city and
county as a city carrier. Applicant has also been granted various
operating rights in California and Arizona by the Interstate Commerce
(1)
Commission .

Applicant's intrastate highway common carrier authority ex-
tends, generally, from the San Francisco Bay area and Sacramento on
the north, along the main coast and inland routes (U. S. Highways
Nos. 101 and 99) to the Los Angeles territory, thence southerly

(1) Exhibit No. 1 is a list of this Commission's decisions under
which applicant claims its operating authority. Exhibit No. 2
is a list of Interstate Commerce Commission operating rights.

and southeasterly, also along said routes, to San Diego and Calexico. It has no direct operating authority between San Diego and El Centro.

(2)
By this application, as amended, Pacific Freight Lines seeks authority to remove certain restrictions along two of its principal routes and to transport general commodities as a highway common carrier, with certain exceptions (3) as follows:

- a. between Redlands and Oasis, and points intermediate thereto, including service between intermediate points, along U. S. Highway No. 99 (one of the restrictions sought to be eliminated);
- b. between the junction of U. S. Highway No. 99 and State Highway No. 111, north of Whitewater, and Indio, via said State Highway No. 111, including service between intermediate points;
- c. between Brawley and Camp Dunlap (near Niland) and points intermediate thereto, including service between intermediate points along State Highway No. 111;
- d. between San Diego and San Ysidro, and points intermediate thereto, including service between intermediate points, along U. S. Highway No. 101;
- e. northbound between San Diego and Oceanside, and points intermediate thereto, including service between intermediate points, along U. S. Highway No. 101 (the other restriction sought to be eliminated);
- f. between San Diego and El Centro, and points intermediate thereto, including service between intermediate points, along U. S. Highway No. 80;
- g. between San Diego and Riverside and points intermediate thereto, including service between intermediate points, along U. S. Highway No. 395;
- h. between the junction of U. S. Highway No. 395 and State Highway No. 74, at Perris, California, and the junction of State Highway No. 79 and U. S. Highway No. 60, approximately ten miles east of Riverside, California, via Hemet, San Jacinto, and Eden, California, including service at all points on and along said highways;
- i. between Oceanside and U. S. Highway No. 395, via State Highway No. 78, the same to be used for operating convenience only;

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- (2) The application was filed October 13, 1949, and amended March 17, 1950. Twenty days of hearings were concluded August 10, 1950, and briefs were filed January 3, 1951.
- (3) Excepted commodities consist of uncrated household goods and other commodities for which the Commission has prescribed minimum rates in Appendix "A", Decision No. 44919, as amended, in Case No. 4808 (City Carriers' Tariff 3-A, Highway Carriers' Tariff 4-A).

- j. between all points and places located five miles laterally of the routes outlined in paragraphs a to i, both inclusive (excluding the route for operating convenience only, referred to in i, above), and points and places included in said paragraphs; and
- k. between all points and places proposed to be served as set forth in paragraphs a to j above, both inclusive, on the one hand, and all points and places on applicant's existing certificates or certificated routes, on the other hand.

The authority sought may be summarized as follows: the elimination of present restrictions between San Diego and Oceanside and between Redlands and Oasis; and the extension and enlargement of its rights into the Perris-San Jacinto-Elsinore area, the Escondido-Vista-Fallbrook area, and between San Diego, on the one hand, and El Centro and San Ysidro, on the other hand. Service to Palm Springs, Calipatria, and Niland is also proposed and lateral rights are requested.

Rates for the proposed services would be the minimum as prescribed by this Commission.

Public hearings were held in Los Angeles, San Diego, El Centro, Indio, Hemet, Riverside, and San Bernardino. The matter was submitted on briefs which have been filed.

Applicant offered oral and documentary evidence of its present operating authority, facilities, financial condition, personnel and operating methods (Exhibits Nos. 1, 4, 7, and 10) and, based upon the showing made, we find, without herein reviewing said testimony and data in detail, that it has the facilities and ability with which to perform the services herein proposed. However, applicant's ability and willingness to perform the proposed transportation services must be considered together with the evidence of public need and convenience.

Restriction between Redlands and Oasis

Considering first, applicant's request to eliminate the present restrictions along routes which it traverses daily in the performance of other authorized transportation services, we are of the opinion, upon the evidence of record in this proceeding, that the request as to the inland route, between Redlands and Oasis, has merit. Approximately forty witnesses, shippers located in the Los Angeles territory and along U. S. Highway 66 as far east as San Bernardino, and consignees and shippers whose places of business are located within said restricted zone, testified that they have a need for applicant's service, and that it would be a convenience to them. Many of their shipments now require an interchange with a second carrier. A single line shipment would eliminate present delays. Claims could be handled more expeditiously and less clerical work would be involved. Along Route 99, between Redlands and Oasis, are situated the cities of Beaumont, Banning, Indio, and Coachella. Eight additional witnesses testified that they need applicant's service at various points along State Highway No. 111 which parallels Highway 99 between Palm Springs and Indio. Along this route are Palm Springs, Cathedral City and numerous ranches and winter resorts. Applicant will serve the territory as far east as Cabazon from its San Bernardino terminal. A new terminal would be established in Indio to serve the Coachella Valley points and as far west as Palm Springs Junction. As there are many ranches, farms, and resorts situated off the two main highways in this area, applicant's proposed service to places located within a five-mile lateral zone is in the public interest and finds support in the record.

Protestant Southern California Freight Lines is the only carrier authorized to render an all-truck highway common carrier service in this area. Southern Pacific Company and Pacific Motor

Trucking Company operate a rail-truck service to most points along said highways. The protestants serving the Redlands-Oasis territory take the position that an additional highway common carrier service is not needed, that they are rendering a satisfactory and adequate service and could handle more traffic.

The evidence shows that many shippers and consignees would be more conveniently and expeditiously served if applicant were permitted to serve them. Their testimony, in the aggregate, shows that a need exists for an additional highway common carrier service. After considering the various elements involved by the elimination of the present restrictions between Redlands and Oasis, as well as the proposed service along Highway No. 111, we are of the opinion and find that public convenience and necessity require applicant's proposed service between Redlands and Oasis.

Proposed Extension of Service between Brawley and Camp Dunlap, Serving the Intermediate Points of Calipatria and Niland.

Applicant now possesses authority to transport shipments in excess of 10,000 pounds from or to Calipatria and points not more than five miles off the highway between Westmoreland and Calipatria (Decision No. 24396). It also has rights between Coachella and Camp Dunlap (situated approximately five miles northeast of Niland) via Niland, and between Brawley and Camp Dunlap, via Calipatria and Niland, over and along State Highway No. 111 (Decision No. 35443). By this application, applicant seeks authority to transport general commodities, without restrictions as to weight, between Brawley and Camp Dunlap, a distance of approximately 24 miles, and all intermediate points and points within five miles on either side of said Highway No. 111. An "on call" service is proposed. Applicant now has extensive operating authority in Imperial Valley. Eight witnesses testified in support of this proposal. However, no need

was shown for a less-truck-load service to Camp Dunlap. The record shows there is some need in this area for applicant's proposed service. At present, Southern California Freight Lines is the only such carrier serving the said communities. Southern Pacific Company and Pacific Motor Trucking Company also operate a rail-truck service. The latter service consists of a train haul to El Centro with a truck back-haul which, according to some witnesses, did not meet their needs. In view of applicant's state-wide operations and present coverage of the Imperial Valley area, we are of the opinion and find that public convenience and necessity require the extension and enlargement of its operating rights between Brawley and Niland, serving also a lateral area of five miles on either side of Highway No. 111.

Proposed Service between San Diego and San Ysidro.

Applicant seeks authority to extend its operations southerly from San Diego to San Ysidro along U. S. Highway No. 101, a distance of approximately 15 miles. San Ysidro is situated along the Mexican border. Actually, said extension would be not more than ten miles as applicant now serves as far south as National City. The five-mile lateral rights which are also sought along this route would enable applicant to serve in addition to the two principal towns of Chula Vista and San Ysidro, the communities of Otay, Palm City, Imperial Beach, and Nestor. The area is principally agricultural with the usual small retail businesses located in the various communities.

A large aircraft factory is located at Chula Vista. The area is now served by protestant Southern California Freight Lines. It is the only highway common carrier authorized to transport general commodities between San Diego and San Ysidro, and intermediate points, as herein proposed. Several shipper witnesses testified that they have a need for the service proposed by applicant. At present, shipments originating on applicant's line and destined to points beyond

National City require an interline movement. This Commission is of the opinion that it is in the public interest to permit applicant to extend its service to San Ysidro and lateral area as proposed, and we find the public convenience and necessity require the establishment and operation of said service.

Restriction against Northbound Shipments
between San Diego and Oceanside.

The evidence is not so favorable for applicant's proposal to eliminate the present restrictions northbound between San Diego and Oceanside. The testimony of need for additional highway common carrier service along said Route 101 was negligible and the problem of convenience of single-line operation was not apparent. There are three major highway common carriers serving the territory northbound between San Diego and Oceanside. Applicant's proposal is a northbound line-haul from San Diego to Oceanside, then a transfer of shipments, at applicant's terminal, to delivery truck with a back-haul to all points as far south as Del Mar. At least two highway common carriers now offer a direct service between San Diego and Oceanside and intermediate points. This route is settled by small communities whose shipping requirements are as much from northern points, particularly from Los Angeles, as from San Diego. Applicant shares with several other carriers the privilege of southbound service. We find that the evidence does not support applicant's request to eliminate the said restriction.

Proposed Service between San Diego and El Centro.

Applicant contends that, as it is now transporting intrastate shipments between San Diego and El Centro via either Santa Ana Canyon or Los Angeles, rendering an over-night service, it should be authorized to use the more direct route along U. S. Highway No. 80;

that the shorter route would reduce operating costs, eliminate extra handling of shipments, and would not materially affect the over-all competitive status of the San Diego and Imperial Valley traffic. The protestants most concerned with this proposal are Southern California Freight Lines and San Diego and Arizona Eastern Railway Co. The latter transports via rail between San Diego and El Centro, and its affiliate, Pacific Motor Trucking Company, performs the pickup and delivery service. The evidence shows that this rail-truck service does not present any serious competition on l.c.l. shipments because it affords second-day deliveries. Protestant Southern California Freight Lines' position is that it is now performing a satisfactory transportation service between San Diego and Imperial Valley; that it has the capacity to expand said service; that the volume of traffic moving between said points does not show a need for an additional carrier; and that, therefore, there is no need for the service which applicant proposes.

Applicant offered Exhibit No. 34 to show representative l.c.l. shipments which it carries between San Diego and Imperial Valley points. For the week of June 26 - 30, 1950, there were 111 shipments, weighing 31,024 pounds, transported from San Diego to Imperial Valley, and four shipments, weighing 763 pounds, transported from Imperial Valley to San Diego. The revenue was \$320.13 and \$10.40, respectively. Applicant contends that if it were allowed to transport said shipments via Highway No. 80 it would effect an annual saving of \$28,932.99 (Exhibit No. 21) because the mileage via Los Angeles is 322 miles and via Santa Ana Canyon, 281 miles, as compared with 120 miles by the proposed route. However, consideration must be given to the fact that said shipments were transported on equipment that operates daily between San Diego and Los Angeles, and Los Angeles and Imperial Valley, whether or not any shipments between said points

are offered to applicant. Actually, the principal added expense for transporting said shipments is the pickup and delivery and over-the-dock handling cost, plus the mileage cost attributable to said shipments. From the evidence available, the actual saving is not ascertainable but obviously is less than shown on said exhibit. (It does not appear that either convenience or necessity require that shipments between San Diego and El Centro be transported in such a roundabout manner.) Applicant's present request to serve Imperial Valley points via State Highway No. 80 must find support in the testimony of shipper witnesses.

Approximately ten witnesses testified that they had need for applicant's proposed service between San Diego and El Centro. Nine additional witnesses testified they had need for the service to intermediate points, particularly El Cajon. Applicant's proposal is to serve El Cajon locally from San Diego. However, other intermediate points would receive only a night service from line-haul equipment. The latter service, the record shows, would be of little use or convenience to the public generally. Applicant's schedule calls for one eastbound trip daily, leaving San Diego at 7:00 p.m. and arriving at El Centro at 11:30 p.m. Westbound, a daily trip leaves at 12:01 a.m. and arrives at 4:30 a.m. Deliveries at both destinations would be made the following morning, with afternoon deliveries at some Imperial Valley points.

Protestant Southern California Freight Lines is the only intrastate highway common carrier with operating rights between San Diego and El Centro and intermediate points. This carrier serves El Cajon daily from San Diego and thrice weekly operates a daytime service from San Diego to intermediate points as far east as Jacumba. Other intermediate points, as far west as Mountain Springs Grade, are served from El Centro. A daily line-haul trip in each direction is

operated. The latter usually consists of one 35-foot semitrailer and occasionally a 21-foot semitrailer is added. The testimony of this protestant's vice president indicates that a daily service to points intermediate of Bostonia and Jacumba is not justified. Shipments from San Diego consist principally of l.c.l. general commodities, and from El Centro and other Imperial Valley points the lading is usually farm products. Exhibit No. 26, offered by Southern California Freight Lines, shows that, during the same "representative" week, June 26 - 30, 1950, as covered by Exhibit No. 34 offered by applicant Southern California Freight Lines, transported from San Diego to Imperial Valley 288 shipments weighing 124,517 pounds. In the opposite direction there were 34 shipments weighing 88,588 pounds. Revenue was \$963.19 and \$440.37, respectively. On an annual basis, the revenue would be \$50,085.88 and \$22,899.24. The testimony of some witnesses indicated that additional traffic was being handled by permitted carriers. To points intermediate of Bostonia and Jacumba, there were 32 shipments from San Diego weighing 6,487 pounds with revenue of \$50.61. No shipments were transported to San Diego from said points. Southern California Freight Lines maintains terminals at Brawley and El Centro. Pacific Freight Lines has a terminal at El Centro. Both carriers permanently maintain equipment in Imperial Valley.

Upon the evidence of record, we are of the opinion and find that public convenience and necessity require that applicant be authorized to serve between San Diego and El Centro, including intermediate points between San Diego and El Cajon, and between Seeley and El Centro. The evidence does not justify granting applicant's request to serve points intermediate of El Cajon and Seeley⁽⁴⁾. The amount of traffic available along U. S. Highway No. 80, east of El Cajon, is very limited, as was shown by protestant's exhibit.

(4) Seeley is situated 8 miles west of El Centro on U. S. Highway No. 80.

As the valley is almost entirely agricultural, lateral rights will also be authorized.

Proposed Service between San Diego and Riverside and Points Intermediate thereto, including Service between Intermediate Points, along U. S. Highway No. 395.

Applicant is also seeking a certificate authorizing service between San Diego and Riverside along U. S. Highway No. 395. Its general manager testified that this route would be used "to run loads for San Bernardino and in the reverse direction to San Diego where we can generate full loads". The intermediate points along said route would not be served from equipment operated between said termini as no daily schedule for less-truck-load traffic is proposed for this "run".

The principal intermediate points along said route are Escondido, Vista, and Fallbrook, situated in San Diego County, and Temecula, Elsinore, and Perris, situated in Riverside County.

Applicant proposes to operate a daily pickup and delivery service to the Escondido-Vista-Fallbrook area from its terminal at Oceanside, via State Highway No. 78. Less-truck-load shipments would be line-hauled, principally from Los Angeles and San Diego, and transferred over its dock at Oceanside to lighter equipment for delivery the following day. Truck loads and the heavier shipments will be delivered from line equipment.

Perris, Elsinore, Temecula, Hemet, and San Jacinto would be served daily from Hemet where a terminal would be established should this operating right be granted. Applicant would line-haul shipments between Los Angeles and Hemet and make delivery the following day, in all the area served, from the Hemet terminal.

Applicant does not now serve the Escondido or Hemet area nor any points along U. S. Highway No. 395 with the possible exception of Vista, which community applicant contends is within three miles of the city of Oceanside.

The evidence of record does not justify applicant's proposed operation between San Diego and Riverside. It appears that applicant desires this route for use when and if it should obtain full loads to transport in order to effect a saving on transportation cost. Such shipments, when available, now move over applicant's present authorized routes, via Los Angeles or Santa Ana Canyon. The latter route is approximately 32 miles longer, one way, than the proposed route. Applicant's Exhibits Nos. 8 and 9 show that, between San Diego and San Bernardino, northbound, it transported an average of approximately 52,000 pounds per month for the 15-month period from January, 1949, to March, 1950, inclusive. Southbound the average per month was approximately 98,500 pounds. This tonnage indicates that only very few full loads would move between said points each month. It was not shown how much of said tonnage consisted of less-than-truckload shipments. It is significant that evidence offered by protestant Southern California Freight Lines (Exhibit No. 44), which now possesses operating rights along said route, serving all intermediate points daily, shows that, for the three-month period from May 3 to August 3, 1950, it transported, northbound between San Diego and Colton and intermediate points, an aggregate of 693 shipments of a total weight of 197,281 pounds, or an average of 65,760 pounds per month, and 285 pounds per shipment. Southbound, during the same period, the figures are 1,666 shipments weighing 372,783 pounds, or an average of 124,261 pounds per month, and 225 pounds per shipment. The evidence clearly indicates the limited tonnage and the less-than-truckload character of the shipments transported along said route.

Upon the evidence of record, we cannot find the public convenience and necessity require applicant's proposed service between San Diego and Riverside along U. S. Highway No. 395.

We shall next consider proposed service of the Escondido-Vista-Fallbrook area and the Perris-Elsinore-Hemet and San Jacinto areas. Hereinafter said areas will be referred to as the Escondido area or the Hemet area. The manner of serving said areas has been outlined.

The largest cities in the two areas are Escondido, with a population of approximately 6,600, and Hemet, which has a population of some 3,400 persons. Both areas are agricultural in character. The principal products in the Escondido area are avocados, citrus fruits, and vegetables. In the Hemet area, deciduous fruits and vegetables are the main crops. The Hemet area also has a reputation as a resort area. Small type businesses prevail in all the communities.

During the course of the several hearings in this proceeding, approximately eighteen shipper or consignee witnesses testified in favor of applicant's proposed service to the Escondido area and approximately thirty witnesses testified in support of the proposed service to the Hemet area. The testimony of several of said witnesses was not very convincing that an additional carrier is needed to meet their transportation requirements. The evidence shows that most shipments forwarded or received were average highway common carrier l.t.l. shipments. Most witnesses testified that they need or would use applicant's service from several times a month to several times a week. A few witnesses required service daily. Little need for transportation of truckloads was shown.

The witnesses testifying for applicant's proposed service in the Escondido area all testified prior to June 3, 1950, and the witnesses for the Hemet area service testified prior to June 14, 1950. At the time of said hearings the entire Escondido area was served by only one highway common carrier, Southern California Freight Lines, protestant herein. Hal Boyle, doing business as Boyle & Son, a highway common carrier, also served the city of Escondido, and some points east thereof, from San Diego via Highway No. 395. By Decision No. 44864, dated October 3, 1950, Hal Boyle was authorized to serve the entire Escondido area from San Diego and from Los Angeles. He now operates a daily highway common carrier service, giving same-day or following-morning delivery from San Diego and following-morning or following-afternoon delivery from Los Angeles. This carrier also has five-mile lateral rights along routes in said Escondido area. Several of applicant's witnesses testified that they used Boyle & Son for some of their shipments and that the service was satisfactory. On June 10, 1950, the Santa Fe Transportation Company began to serve, as a highway common carrier, all the principal communities in the Escondido area, pursuant to authority granted by this Commission by Decision No. 43355. Said authority includes the right to transport less-carload general commodities moving on the billing of The Atchison, Topeka & Santa Fe Ry. Co., between all points on the main and branch lines of said railway, between Los Angeles and National City and in the Escondido area.

Except for farm shipments which are seasonal, the transportation needs for the said area and communities are definitely for incoming shipments originating principally at Los Angeles and San Diego. Three highway common carriers are now serving between Los Angeles and San Diego, on the one hand, and the Escondido area, on the other hand; two are among the largest transportation companies

in the state and the third also has operating rights between the two principal supply areas and the Escondido area.

In the Hemet area, two of the same highway common carriers are operating, protestants Southern California Freight Lines and Santa Fe Transportation Co.; in addition, protestant Pacific Motor Express, a highway common carrier, serves between Corona and Temecula, including the intermediate points along highways Nos. 71 and 395.

It appears, from the evidence of record, that the needs of the witnesses are not extraordinary in character and can be readily and adequately supplied by the carriers now certificated. Public convenience and necessity is more than a desire on the part of shipper or consignee for the service of a particular carrier. It must appear that the community as a whole, or at least a substantial portion thereof, does not have available transportation services which can adequately meet its requirements. Having in mind the general character of the shipping needs as testified herein, and the transportation services which are now available, we cannot find, upon this record, as it applies to the Escondido and Hemet areas, that public convenience and necessity require the transportation services as proposed by applicant.

When, upon consideration of the entire record, it is not clear that public convenience and necessity require the service of an additional competitive carrier, or it appears that certification might seriously dilute available traffic revenue to the detriment of existing carriers, the Commission will adhere to its policy of limiting the number of certificated carriers. Additional transportation is not in the public interest if it is likely to result in overservicing, curtailment of existing schedules, or, possibly, rate increases; and where, as in the Escondido and Hemet areas, there is

not a clear and convincing showing that shippers or consignees are actually in need of more service, a certificate will not be granted in the absence of a Commission report or survey on present and potential tonnage showing the need, if any, for additional highway common carrier service.

Having duly considered the entire record in this proceeding, and finding the facts to be as hereinabove set forth, the Commission concludes that the application should be partially granted and partially denied. ✓

O R D E R

Public hearings having been held in the above-entitled proceeding, the Commission being fully advised in the premises, and finding 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 Pacific Freight Lines, a corporation, authorizing it to establish and operate a service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of property (a) between Redlands and Oasis, and intermediate points, along and laterally within five (5) miles of U. S. Highway No. 99; (b) between the junction of U. S. Highway No. 99 and State Highway No. 111, north of Whitewater, and Indio, and intermediate points, along and laterally within five (5) miles of State Highway No. 111; (c) between San Diego and San Ysidro, and intermediate points, along and laterally within five (5) miles of U. S. Highway No. 101; and (d) between San Diego and El Centro, and the intermediate points of El Cajon and Seeley, along U. S. Highway No. 80, and laterally within five (5) miles of U. S. Highway No. 80 between San Diego and El Cajon and between Seeley and El Centro; as an

extension and enlargement of, and to be consolidated with, applicant's present operating rights, subject to the following restrictions and conditions:

Applicant shall not transport uncrated household goods and other commodities for which the Commission has prescribed minimum rates in Appendix "A", Decision No. 44919, as amended, in Case No. 4808 (City Carriers' Tariff No. 3-A, Highway Carriers' Tariff No. 4-A).

(2) That, in providing service pursuant to the certificate herein granted, there shall be compliance with 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, applicant shall conduct said highway common carrier operation over and along the following described routes:

As hereinabove set forth in Paragraph (1).

(3) That, except as herein authorized, Application No. 30690 be, and it hereby is, denied.

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

Dated at San Francisco, California, this 3rd day of April, 1951.

Justice F. Casper
Harold Huls
John L. McCall
COMMISSIONERS

I concur in the decision in Application No. 30690 except as it relates to the proposed service between San Diego and El Centro.

I dissent from that portion of the decision pertaining to the service between San Diego and El Centro for the following reasons. The opinion states that the evidence is not conclusive for an alternate route and that support must be found in the testimony of shipper witnesses for a certificate of public convenience and necessity. The testimony of the ten witnesses likewise appears to be inconclusive, and the amount of freight actually moved by applicant in the test week does not reveal the need for another common carrier in this area. The following language appearing in another part of the decision certainly is applicable to the testimony in this instance:

"It appears, from the evidence of record, that the needs of the witnesses are not extraordinary in character and can be readily and adequately supplied by the carriers now certificated. Public convenience and necessity is more than a desire on the part of shipper or consignee for the service of a particular carrier. It must appear that the community as a whole, or at least a substantial portion thereof, does not have available transportation services which can adequately meet its requirements."

Weak evidence for an alternate route plus weak evidence for a certificate cannot make conclusive evidence for one or the other.

I recommend a commission staff report on the traffic in this area.


COMMISSIONER