

ORIGINAL

Decision No. 45716

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAN DIEGO FORWARDING CO., for a)
certificate of public convenience)
and necessity to operate as a high-)
way common carrier of commodities)
generally between Los Angeles and)
points in the vicinity thereof on)
the one hand, and San Diego and)
points in the vicinity thereof on)
the other hand.)

Application No. 31780

Glanz & Russell, by Theodore W. Russell and R. Y. Schureman, for applicant. Donald Murchison for Pacific Freight Lines and Pacific Freight Lines Express; and H. J. Bischoff, H. P. Herry and John B. Robinson, for Southern California Freight Lines and Southern California Freight Forwarders, protestants. Wm. F. Brooks and Louis M. Welsh for The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company; and C. N. Bailey for California Cartage Company, interested parties.

O P I N I O N

San Diego Forwarding Co. is a California corporation now engaged in business as an "express corporation", as that term is defined in Sec. 2 (k) of the Public Utilities Act, between a portion of the City of Los Angeles ⁽¹⁾ and Beverly Hills, on the one hand, and the City of San Diego, on the other hand.

(1) Generally the City of Los Angeles area which is served is bounded by Mulholland Drive and the Los Angeles city limits on the north; the Los Angeles River, Indiana Street, Alameda Street, and Central Avenue on the east; 88th Street and Olympic Boulevard on the south; and Crenshaw Boulevard and the city limits of Deverly Hills on the west. (See shaded area, Exhibit C, attached to application).

Applicant provides said express service southbound only. It also operates as a radial highway common carrier, contract carrier, and city carrier, and has I.C.C. authority to operate as a freight forwarder between the Los Angeles commercial zone and harbor and San Diego.

By this application authority is requested to operate as a highway common carrier, between all points and places within the Los Angeles area, as described in Exhibit A attached to the application ⁽²⁾, on the one hand, and the cities and communities of San Diego, Coronado, North Island, El Cajon, La Mesa, Lemon Grove, National City, and Chula Vista, on the other hand, subject to the following exceptions: (a) no points intermediate of the said Los Angeles area and the City of San Diego will be served, and (b) no highway common carrier service, southbound, is proposed between the applicant's present express service area, as described in Exhibit B attached to the application, and the City of San Diego.

Applicant proposes to transport general commodities ⁽³⁾. Rates, rules and regulations will be in conformance with Highway Carriers' Tariff No. 2. A daily service is proposed Monday

-
- (2) The Los Angeles area applicant proposes to service is bounded, generally, by Los Angeles city limits and Colorado Boulevard on the north, Rosemead and Lakewood Boulevards on the east, Imperial Highway on the south, and Sepulveda Boulevard and the city limits of Beverly Hills on the west. Applicant's present express service zone is entirely within this area.
- (3) Applicant does not propose to transport the following kinds of property: live animals or birds; freight in dump or tank equipment in bulk; dynamite or other high explosives; used household goods, personal effects, secondhand furniture, musical instruments, radios, office furniture and store fixtures and equipment when any of said articles are tendered for shipment uncrated.

through Friday. Freight will be picked up one day and delivered the following business day.

Applicant will continue its present operation as an express corporation.

Public hearings were held at Los Angeles and San Diego. The matter was submitted for decision without briefs.

The evidence shows that, as of November 30, 1950, applicant's financial condition consisted of tangible assets of \$102,604.72, and liabilities of \$26,951.20. The net worth of \$75,653.52 was represented by capital stock of \$40,000 and earned surplus of \$35,653.52. Net income for the first eleven months of 1950 was \$15,872.98. For said period applicant's gross transportation revenue was \$337,260.45, of which amount \$211,691.73 was derived from its intrastate express business and its I.C.C. freight forwarding business. The amount applicable to each source was not shown. Applicant, however, paid The Atchison, Topeka and Santa Fe Railway Company \$64,549.78 for transportation service as underlying carrier of its express shipments. The revenue derived from city carrier business (Los Angeles and San Diego local cartage) was \$60,296.00, and from contract and radial highway common carrier hauls \$56,690.30. Other revenue, including handling charges, C.O.D. fees and storage, amounted to \$8,581.82.

Applicant's president testified that 7,633,860 lbs. of freight were transported as contract carrier and radial highway common carrier in the said eleven-month period. The record shows that a very large portion of this tonnage moved southbound

between the Los Angeles area and San Diego and nearby communities; that applicant has been conducting said permitted carrier operations for many years and that the volume of said business has increased considerably since the termination of the recent war; that a material expansion of said permitted carrier operations resulted from the relocation of some of applicant's former express customers to the area surrounding applicant's express territory and the industrial development of the latter area. It was applicant's desire to retain this business and to bring its operations within the provisions of the Public Utilities Act which led to the filing of this application.

The record shows that applicant owns and operates thirty-four pieces of equipment, consisting of various types of trucks, tractors and trailers, including two converter gear; that it has leased terminals in Los Angeles and San Diego; that one-half of the equipment is operated in the Los Angeles area, and one-half in the San Diego area; and that between forty-five and fifty persons are employed.

Thirty-four public witnesses, shippers or receivers of freight, were called to testify in behalf of applicant. All of said witnesses testified that they needed applicant's services for shipments originating at one or more of the points situated in the Los Angeles area (as described in Exhibit A attached to the application). Thirteen of said witnesses had shipments originating in applicant's present Los Angeles express zone and destined to communities surrounding San Diego, and twenty-one of the witnesses had shipments originating in the

area surrounding the express zone and destined to San Diego and/or the other named communities. The record is clear that, southbound, applicant has been transporting a substantial amount of tonnage, and that a public need exists for its service as a highway common carrier as proposed herein. However, the testimony of not more than three witnesses showed any material need for the transportation of freight northbound, and their transportation requirements were of such a nature that they could be provided by any of several highway common carriers now authorized to perform a service such as herein proposed. Of the remaining witnesses, approximately half had no need for a northbound service, and the remaining witnesses required the movement of small shipments occasionally.

As is usual in these proceedings, protestants offered evidence of their financial condition, operating authority, equipment, and other facilities, personnel, schedules, and type of transportation service offered. It was also stipulated that the service they rendered to their customers was adequate and satisfactory.

Having considered the entire record in this proceeding, we find that public convenience and necessity require that applicant establish and operate a highway common carrier transportation service, southbound, between the Los Angeles area, as described in Exhibit A, filed with its application, and the communities of San Diego, Coronado, North Island, El Cajon, La Mesa, Lemon Grove, National City, and Chula Vista, subject to the restrictions and conditions as hereinafter set forth. The application will be granted in part and denied in part.

San Diego Forwarding Co. 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 San Diego Forwarding Co., a California corporation, authorizing it to operate as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property from the Los Angeles area, as described in Appendix A, attached to this decision, on the one hand, and to the cities and communities of San Diego, Coronado, North Island, El Cajon, La Mesa, Lemon Grove, National City and Chula Vista, 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 said described Los Angeles area, nor between any of the named points situated in San Diego County.
- (c) Applicant shall not transport live animals or birds; freight in dump or tank equipment in bulk; dynamite or other high explosives; used household goods, personal effects, second-hand furniture, musical instruments, radios, office furniture and store fixtures and equipment when any of said articles are tendered for shipment uncrated.
- (d) Applicant shall not transport any property, as a highway common carrier, between its present Los Angeles express zone and the City of San Diego.

(2) That, in the operation of the highway common carrier 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 at any time the operation herein authorized, San Diego Forwarding Co. shall conduct said highway common carrier operation over and along the following described routes:

Within the Los Angeles area, as described, and within the named cities and communities over and along the most appropriate route or routes.

APPENDIX A

Beginning at the intersection of Colorado Street and Rosemead Blvd. in Pasadena, California, then west along Colorado Street to Colorado Blvd., then along Colorado Blvd., and the prolongation thereof to the east bank of the Los Angeles River then northerly along the east bank of the Los Angeles River to the boundary of the city of Los Angeles then westerly along the boundary of the City of Los Angeles to Barham Blvd., then southerly on Barham Blvd. to Cahuenga Blvd., then southeasterly along Cahuenga Blvd. to Mulholland Highway then westerly along Mulholland Highway to Coldwater Canyon Road, then southerly along Coldwater Canyon Road to the northerly boundary of the City of Beverly Hills, southwesterly along the boundary of the City of Beverly Hills to Santa Monica Blvd., then southwesterly along Santa Monica Blvd. to Sepulveda Blvd., then southerly along Sepulveda Blvd. to Imperial Highway, then east along Imperial Highway to Lakewood Blvd., then north along Lakewood Blvd. and Rosemead Blvd. to the point of beginning.

Also points on both sides of the streets and highways which are designated as boundary lines in the foregoing territorial description.

Between the said Los Angeles area and said named cities and communities situated in San Diego County, over and along U. S. Highway 101 and By-pass 101, and any appropriate additional route from San Diego to Coronado, North Island, La Mesa, El Cajon, Lemon Grove, National City, and Chula Vista.

(3) That, except as herein authorized, Application No. 31780 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 15th day of May, 1951.

R. F. Johnson
Justin F. Querner
Harold A. Kula
John E. Ketchell

COMMISSIONERS