

Decision No. 46099**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Benjamin S. Goldberg and W. Earl)
 Goldberg, copartners doing business)
 as FILM TRANSPORT CO. of CALIFORNIA,)
 for a certificate of public convenience) Application No. 31951
 and necessity to operate as a highway)
 common carrier of commodities gen-)
 erally between points and places now)
 served pursuant to Decision No. 43160.)

Glanz and Russell by Theodore W. Russell, for appli-
 cant. Donald Murchison and Gordon and Knapp, by Frederic A.
Jacobus, for Pacific Freight Lines and Pacific Freight Lines
 Express, and H. J. Bischoff, for Southern California Freight
 Lines and Southern California Freight Forwarders, protestants.

O P I N I O N

By this application, as amended, Benjamin S. Goldberg
 and W. Earl Goldberg, copartners, doing business as Film Trans-
 port Co. of California, seek authority to operate as a high-
 way common carrier of general commodities ⁽¹⁾ between the
 "San Diego Territory" and the "Calexico-El Centro-Brawley
 Service Territory", as described in Exhibit "A" filed with
⁽²⁾
 the amendment to the application .

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- (1) Commodities not proposed to be transported are livestock,
 petroleum products in tank trucks, used household goods
 and personal effects, explosives, and uncrated furniture.
 (2) Generally the San Diego Territory is all the area south of
 a line running from La Jolla to Lakeside, and west of a
 line running south from Lakeside to the Mexican border;
 the other territory is along U. S. Highway No. 80 east of
 Bostonia to El Centro and along all the principal high-
 ways in Imperial Valley and three miles laterally thereof.

Public hearings were held at San Diego, El Centro and Los Angeles, and the matter having been argued, was submitted for decision.

At the hearings applicant proposed to restrict its service as follows:

- (a) transport only shipments weighing not more than 500 lbs.,
- (b) charge second-class or higher rates for all shipments,
- (c) shipments to be carried only in the same vehicle used to transport film and film accessories,
- (d) operate only one trip per day in each direction, using a van-type, single-axle truck of not to exceed 12,000 lbs. capacity.

Applicant is now authorized to transport, as a highway common carrier, motion picture film, film accessories, candy and confections from distributors thereof in Los Angeles to motion picture theatres located in various service territories in Southern California (Decisions Nos. 43160 and 45421).

Several routes are used (Exhibit No. 1), one of which is designated Route No. 5, between San Diego and Imperial Valley.

Applicant now operates one of its routes southerly from Los Angeles to San Diego. The truck leaves at 7:30 P.M., and arrives at 11:00 P.M. At 1:30 A.M. a line-haul truck leaves San Diego for the Imperial Valley, arriving at Calipatria at 6:30 A.M. Lading from Los Angeles is transferred at applicant's terminal at National City, which adjoins the City of San Diego. Pickup and delivery service is performed in the San Diego area daily with three trucks, including the one used

for the valley run. Applicant has a contract with the Post Office Department to transport mail between San Diego and Imperial Valley which requires a pickup at the San Diego Post Office around 1:00 A.M., and delivery at Calipatria at 6:30 A.M. In performing the Imperial Valley service a van-type single-axle truck, having a capacity of approximately 12,000 lbs., is used. Mail is delivered at El Centro, Brawley and Calipatria between 5:30 A.M. and 6:30 A.M. Occasionally theatres may be served on this schedule, but it is customary to deliver the mail first. At 7:30 A.M. another driver takes over the same truck and begins the morning delivery of film and candies. The usual route followed by this driver is from Calipatria to Westmoreland, Brawley, El Centro, Calexico and Holtville, arriving at the latter place before noon.

After lunch time this driver returns along the same route, making pickups and deliveries, if any, along the said valley route. At 8:00 P.M. the original line driver leaves Calipatria for the return trip to San Diego, arriving at 1:00 A.M. Mail is picked up by either or both of the drivers for delivery at the San Diego Post Office.

One of the partners testified that applicant transports, between San Diego and Imperial Valley, 1,000 to 1,500 lbs. of film and film accessories, 500 to 600 lbs. of mail, and 200 to 300 lbs. of candies and confections per day, six days per week. The approximate average monthly revenue is \$1,200 from film, \$622 from mail, and \$150 from candy. The total monthly revenue averages about \$1,972.

The evidence also shows that, in October, 1950, applicant began to transport less-truck-load shipments of general commodities into Imperial Valley from San Diego, utilizing the available space in the truck carrying film, candy and mail. Exhibit No. 2 shows the extent to which this business had been developed by the month of February, 1951. Said exhibit shows that, in said month, applicant transported 139 shipments weighing a total of 34,357 lbs. Individual shipments weighed from 7 lbs. to 6,625 lbs. Included were 12 shipments weighing in excess of 500 or a total of 16,350 lbs. Therefore, there were 127 shipments of less than 500 lbs., weighing a total of 18,015 lbs. On the basis of 24 working days in said month, applicant transported an average of 5.3 shipments per day averaging approximately 142 lbs. each, or 750 lbs. per day. Of the total number of shipments of general commodities transported in said month, seven shippers accounted for 123, or 89 per cent ⁽³⁾.

Eighteen shippers and/or receivers of freight testified for applicant. Nearly all of them are named in Exhibit No. 2. In substance, their testimony was that they need an early following-morning delivery from San Diego. The evidence shows that there is an occasional need for shipments to be delivered immediately upon the opening of a store. The record

(3) The shippers and commodities were: Eaton & Co., frozen foods; Hudson Corp., lubriplate, paint and machinery parts; Auto Gear, Wetmore's, Magneto Sales, Dorman's and Jerry High Distributing Co., all in the auto parts and accessories business. Fifty-eight of the shipments were for Eaton & Co., and sixty-five for the others named. All are San Diego concerns except Jerry High Distributing Co., located in El Centro.

lacks substantial evidence to support a finding that the service of an additional highway common carrier is necessary to meet the usual daily requirements of these witnesses. Their testimony that they cannot get next-morning delivery by using protestants' services is not supported by all of the evidence (Exhibit No. 8).

The evidence shows that both the Southern California Freight Lines and Pacific Freight Lines have terminals situated in several cities in Imperial Valley; that several line-haul schedules arrive at the El Centro terminal between 3:00 A.M. and 6:00 A.M.; that shipments are transferred to several pickup and delivery trucks, and that deliveries to various parts of the valley begin as early as 7:30 A.M., but usually at 8:00 A.M. It was also testified that, when there is a special need for an earlier than regular delivery, arrangements can be made for such service. Both protestants can and do give a following-morning delivery to all the principal points in Imperial Valley which are proposed to be served by applicant. Even with as many as four delivery trucks, used by one of the protestants, all shipments cannot be dropped at 8:00 A.M. or even 9:00 A.M.⁽⁴⁾ Obviously applicant, with only one truck, cannot perform such service for all his shippers and consignees. The need for such

(4) Southern California Freight Lines, one of the protesting carriers, presented evidence (Exhibit No. 8) showing that, for the last 6 months of 1950 and the first 3 months of 1951, it consistently made following-morning deliveries of shipments from San Diego to Imperial Valley points, the time of delivery being between 7:50 A.M. and 11:30 A.M., with the large majority of the shipments having been delivered by 10:30 A.M.

exceptional service cannot, upon this record, be accepted as a basis for authorizing another certificated operation. There is no substantial evidence in the record showing that a need exists for applicant's proposed service between Bostonia and El Centro, nor westbound from Imperial Valley to San Diego. The record does not show that there is such a volume of general freight moving into the Imperial Valley from San Diego, nor that there is a material amount of new business available as would justify the granting of this application. Most of applicant's present general commodity shippers have been, or now are, also the customers of protestants. Having recently authorized one of the protesting carriers to operate as a highway common carrier of general commodities between San Diego and Imperial Valley, via U. S. Highway No. 80, (Decision No. 45538, dated April 3, 1951), we are unable to find upon the evidence presented in this proceeding that a public need exists for an additional highway common carrier service.

The application will be 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 having been unable to find that public convenience and necessity require applicant's proposed service as a highway common carrier,

IT IS ORDERED that the application of Benjamin S. Goldberg and W. Earl Goldberg, copartners, doing business as Film Transport Co. of California, being Application No. 31951, 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 20th day of August, 1951.

R. T. [Signature]
Justice J. Cooney
Harold P. Kuls
John E. [Signature]
Herbert [Signature]
COMMISSIONERS