

ORIGINAL

Decision No. 46186

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 RALPH A. HAGOPIAN, an individual doing)
 business under the firm name of HAGCO)
 MOTOR LINES, for a certificate of)
 public convenience and necessity)
 authorizing the transportation of)
 freight, with certain exceptions, be-)
 tween Los Angeles, California, and)
 points in the vicinity thereof, on)
 the one hand, and certain points in)
 Imperial County, California, on the)
 other hand, serving no intermediate)
 points.)

Application No. 31398
 As amended.

Glanz & Russell by Theodore W. Russell and R. C. Schurman, for applicant. H. J. Bischoff for Southern California Freight Lines and Southern California Freight Forwarders; John H. Gordon for Southern Pacific Company and Pacific Motor Trucking Company; Gordon, Knapp & Gill by Joseph C. Gill, for Pacific Freight Lines and Pacific Freight Lines Express; and Turcotte & Goldsmith by Frank W. Turcotte and Jack O. Goldsmith, for Thompson Truck Lines, protestants.

O P I N I O N

Ralph A. Hagopian, doing business as Hagco Motor Lines, requests authority to operate as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act of the State of California, to carry freight as hereinafter described between the Los Angeles territory, defined therein as including the City of Los Angeles and surrounding area as far north as San Fernando, as far west as the Pacific Ocean, Long Beach on the south, and Pasadena on the east, on the one hand, and Imperial County west of the All-American Canal, on the other hand.

Applicant proposes to transport daily over U. S. Highway No. 99 farm and agricultural products, both processed and unprocessed, returned and rejected shipments, empty containers and merchandise to be repaired, from the Imperial Valley to the Los Angeles area, and to transport southerly all commodities generally, with the exception of petroleum and petroleum products in tank vehicles, explosives and materials contaminating to other lading.

Public hearings were held before Examiner Rowe in Los Angeles and El Centro. Evidence, both oral and documentary, was adduced and the matter was duly submitted on briefs which have since been filed.

Applicant described his present operation and his proposal, and also testified as to his experience, operating equipment and facilities, and financial condition. A number of public witnesses also testified on his behalf. Through their respective operating officials, protestants described the character of the service which they severally provide. They called shipper witnesses who testified as to the satisfactory service they provided and as to the fact that such witnesses had no need for a new service.

Applicant proposes to continue to use the equipment and facilities devoted to his present operation. This equipment and these terminal facilities appear adequate for the operation which will herein be authorized. Applicant has terminal facilities at Los Angeles and El Centro.

At the time of the initial hearings applicant had available for use in the proposed service some thirteen pieces

of equipment. An additional unit was added while the hearings were in progress. Applicant proposes to care for seasonal fluctuations in equipment requirements in the future by leasing any needed additional units. For the line haul applicant has two Kenworth tractors of adequate power, and in good condition. One Mack tractor and one GMC tractor are also available.

Proof as to the requirements of public convenience and necessity for the proposed service of carrying farm and agricultural products as proposed from the Imperial Valley to the Los Angeles area was substantial and convincing. We find as a fact that public convenience and necessity require applicant's proposed service for the transportation of such freight.

The testimony as to the need and desirability for the proposed service of carrying general freight not related to farm or agricultural produce in either direction was conflicting and on the whole less substantial. Applicant produced seven public witnesses at the Los Angeles hearings, and twenty-one at El Centro who testified as to the need for the proposed service. There was substantial testimony justifying the granting of authority for the carriage from Los Angeles to the Imperial Valley of such general commodities as chemicals, fungicides, insecticides, rubber and rubber products, fencing and fencing materials, seeds, fertilizer, tractor parts and equipment, petroleum and petroleum products in drums and other containers, and boxes, box shock and empty containers for packing and shipping farm and agricultural products, including paper, paper wrap, paper and cloth sacks, wood and other materials used and useful for making boxes and other containers, and hardware.

The Commission finds, as a fact, that public convenience and necessity require that applicant be authorized to transport such articles from the Los Angeles area to the Imperial Valley as a highway common carrier. Protestants are presently ready, able and willing to carry said products. However, the return or southward movement of such freight is a necessary incident in setting up and insuring the soundness, stability, efficiency and economy of the highway common carrier service of carrying farm and agricultural products from the Imperial Valley to the Los Angeles area. An operation consisting of carrying farm and agricultural products only in a northern movement would not be financially feasible.

The protestants who are highway common carriers have proved that too great an inroad upon the traffic now available to them would tend to cause their present operations in this area to become less remunerative with the probability of future curtailments in service in the Imperial Valley, or of rate increases. It is not clear that there is any public need for the carriage of any additional freight such as drugs and sundries, electrical and household appliances, groceries, telephone supplies and appliances, automobile parts and equipment, magazines, nor of any other articles not specifically covered by the testimony. As to such freight, just enumerated, the granting of operative rights to this applicant under present conditions is likely to result in overservicing and possible curtailment of schedules

of existing carriers, and, possibly, result in requests for rate increases. Therefore, except as heretofore indicated, the application will be denied.

Ralph A. Hagopian, doing business as Hagco Motor Lines, 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 or between fixed points. 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

Application as above entitled having been filed, public hearings having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby 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 Ralph A. Hagopian, doing business as Hagco Motor Lines, authorizing the establishment and operation of service as a highway common carrier (as defined in Section 2-3/4 of the Public Utilities Act), for the transportation of

farm and agricultural products from the Imperial Valley and for the transportation into Imperial Valley of chemicals, fungicides, insecticides, rubber and rubber products, fencing and fencing materials, seeds, fertilizer, tractor parts and equipment, petroleum and petroleum products in drums and other containers, and boxes, box shoo and empty containers for packing and shipping farm and agricultural products, including paper, paper wrap, paper and cloth sacks, wood and other materials used and useful for making boxes and other such containers and hardware, between the area embraced by the following boundary:

Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101 Alternate; thence northeasterly along Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U. S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101 Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101 Alternate; thence northerly along an imaginary line to the point of beginning,

on the one hand, and on the other hand all that portion of the Imperial Valley, California, which lies west of the All-American Canal, without any service to intermediate points.

(2) That, in providing service pursuant to the certificate herein 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 on 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, appropriate tariffs and time tables.

(c) Subject to the authority of this Commission to change or modify it by further order, applicant shall conduct operations pursuant to the certificate herein granted, over and along the following route:

Between said Los Angeles area and Imperial Valley over and along U. S. Highway No. 99.

(3) That, in all other respects, said Application No. 31398 is hereby denied.

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

Dated at Los Angeles, California, this 19th day of September, 1951.

R. T. [Signature]
Justin J. Quares
Harold P. Kula
Ed L. [Signature]

COMMISSIONERS.