

ORIGINAL

Decision No. 46400

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
RICHARD W. WILSON, an individual doing)
business as L. A. EUREKA LINES, for a)
certificate of public convenience and)
necessity authorizing the transportation)
of general freight with some exceptions,)
between Los Angeles and points in the)
vicinity thereof, and Eureka and points)
within a 15-mile radius thereof, serving)
no intermediate points.)

Application No. 31274

- Glanz and Russell, by Arthur H. Glanz and Robert Y. Schureman, for applicant.
- John H. Gordon, W. A. Gregory, Jr. and J. L. Durnford, for Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Motor Trucking Company and Railway Express Agency, Inc., protestants.
- Donald Murchison, for Pacific Freight Lines and Pacific Freight Lines Express, protestants.
- Marvin Handler and Veryl Callison, for Callison Truck Lines, protestant.
- Harold M. Hays, for Intercity Transport Lines, Intercity Motor Lines and Eureka-Garberville Truck Line, protestants.
- Douglas Brookman, for California Motor Express, Ltd., protestant.
- C. A. Millen, for Valley Express Company, protestant.

O P I N I O N

In this proceeding, the applicant, Richard W. Wilson, an individual engaged in business under the trade name of L. A. Eureka Lines, seeks a certificate of public convenience and necessity authorizing the operation of a highway common carrier service between the Los Angeles area and Eureka, and points within a fifteen mile radius of that city, via U. S. Highway No. 101,

(1) The Los Angeles area which applicant proposes to serve extends generally from San Fernando, on the north, to Long Beach, Wilmington and San Pedro, on the south; and from Santa Monica, on the west, to Alhambra and Pasadena, on the east. It differs, in some respects, from the area described in Item 270 of Highway Carriers' Tariff No. 2. Included within an airline distance of fifteen miles from Eureka are Arcata, Fields Landing, Bucksport, Lolita, Ferndale and Fortuna.

(2)
serving no intermediate points. With certain exceptions, general commodities would be transported, including those moving under refrigeration. The application was opposed by common carriers operating within this territory, both rail and truck, which appeared as protestants. (3) Public hearings were held before Examiner Austin at Los Angeles, Eureka and San Francisco.

Applicant described the service which he proposes to establish, as well as his present operations. In addition, shipper witnesses were called. Through their respective operating officials, protestants described the service which they severally provide.

Applicant is an experienced truck operator. For some twelve years, he operated between Los Angeles and northwestern points, such as Spokane and Seattle, Washington, hauling fruit and and produce northbound for Pacific Fruit and Produce Company, and apples southbound from Yakima, Washington. At times his trucks were leased to other carriers serving this territory. For about one year, during 1946 and 1947, he was employed by West Coast Fast Freight, superintending the transportation of fresh fish and frozen products from Seattle to Los Angeles.

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- (2) These exceptions include petroleum and petroleum products moving in tank vehicles, livestock, explosives, household goods and new uncrated furniture.
- (3) Those appearing as protestants comprised Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Motor Trucking Company, Railway Express Agency, Inc., Pacific Freight Lines, Pacific Freight Lines Express, Intercity Transport Lines, Intercity Motor Lines, Eureka-Garberville Truck Line, Callison Truck Lines, California Motor Express, Ltd. and Valley Express Company.

Since 1948, applicant has conducted a trucking service between Los Angeles and Eureka, operating under a contract carrier permit issued by the Commission. While employed by West Coast Fast Freight, he considered the possibilities of the fish movement from Eureka, to which his attention had been directed by Los Angeles distributors. From that point, this product would reach Los Angeles one day earlier than from Seattle, and consequently, would be fresher and less subject to spoilage. Following an investigation, applicant embarked upon this venture, using leased trucks at the outset and gradually acquiring his own equipment. As the business developed, other commodities also were handled.

To insure their legality, applicant's operations have been curtailed materially. From the beginning, applicant has been aware of the limitations surrounding the service which lawfully could be provided under his permit; in this respect, he has been guided by the advice of counsel. Representatives of the Commission's field division have called upon him and discussed the nature of his operations. Frequently, he has rejected business which might have proved quite profitable.

Some traffic has been carried between points other than those here involved. Small southbound shipments of fish, accepted to accommodate the dealers, have been delivered at Santa Barbara. To provide a backhaul, potatoes, picked up at Bakersfield and Fresno, have been handled northbound. These operations, it was said, are expensive; moreover, the volume of the movement is comparatively small. If certificated, applicant would perform no service, as a permitted carrier, between the terminals nor at any intermediate point along the proposed route. Other points, however, might be served.

The service which would be established was described in detail. At the outset, a triweekly schedule is contemplated; however, a more frequent service would be furnished if necessary to meet the demands of traffic. At present, Wilson testified, he is operating practically on a daily basis. Under applicant's proposal, northbound trucks would leave Los Angeles at 3 p.m., reaching Eureka on the following day at 11 a.m.; southbound, they would leave Eureka at 6 p.m., arriving at Los Angeles the next day not later than 4 p.m.

These schedules would be satisfactory to the shippers, it was said. Wilson testified that the matter had been discussed with them and had met with their approval. Shipments moving northbound would be afforded first afternoon delivery at Eureka. Those moving south, would reach Los Angeles during the late afternoon of the following day and could be delivered then, if necessary. However, the consignees prefer that fish be delivered at their markets during the early morning of the second day, before 4 a.m.

A pickup and delivery service would be provided both at Los Angeles and Eureka within the areas described above. Because of the early leaving time at Los Angeles, freight would be picked up during the morning. It is anticipated that shippers would cooperate with applicant to make this possible; in fact, applicant

(4) Under applicant's proposed schedule, trucks would depart from Los Angeles on Mondays, Wednesdays and Fridays, respectively, reaching Eureka on Tuesdays, Thursdays and Saturdays. In the opposite direction, they would leave Eureka on Mondays, Wednesdays and Saturdays, arriving at Los Angeles on Tuesdays, Thursdays and Sundays. This is offered as a minimum schedule. A more frequent service would be supplied whenever the traffic could support it.

testified, some had expressed a willingness to do so. On occasion, if necessary, applicant's pick-up trucks would be supplemented by those of other carriers with whom he had arranged to supply such a service.⁽⁵⁾

The facilities available to provide the service were described. At Los Angeles, applicant would continue to use his existing terminal, located at Ninth and Alameda Streets.⁽⁶⁾ An office is maintained at Seventh Street and Central Avenue. In Eureka, applicant occupies space rented from another carrier,⁽⁷⁾ where an office also is situated. Arrangements have been made to locate this terminal elsewhere if the operation were certificated. The present staff consists of some eight permanent employees, including four truck drivers; their number would be augmented if the application were approved.

To provide the service, applicant would use the equipment now devoted to his current operations. This comprises three tractors, four semi-trailers and four pick-up trucks. The motive power for the line-haul units is supplied through two Kenworth tractors which are equipped with 275 h.p. diesel motors. One

(5) Wilson testified that he had arranged with other carriers to provide pick-up service in the Los Angeles area, particularly in the outlying districts. These carriers would be available should applicant's own equipment prove insufficient for this purpose.

(6) Applicant's terminal is situated at the Sheldon service station, at Ninth and Alameda Streets, in Los Angeles. Here, docks are available to truckers for a small rental. At present, applicant does not rent any dock space. Instead, freight is transferred directly from pick-up trucks to the line-haul semi-trailer, which is stationed at the terminal for that purpose.

(7) At Eureka, applicant temporarily occupies space rented from another carrier. Here, no dock facilities are available. Freight is transferred directly from the pick-up truck to the line-haul semi-trailer, stationed at the terminal.

International tractor, used locally in Los Angeles, could also be transferred temporarily to the line-haul operation. Of the four pick-up trucks, three are stationed at Los Angeles and one at Eureka. Attached to two semi-trailers are mechanical refrigeration units. If necessary, additional equipment could be acquired. In the past, trucks have been leased, when needed, from operators who have agreed to supply these facilities. Since acquiring two semi-trailers recently, applicant has had less occasion than formerly to use leased equipment. The resulting saving in rentals, which otherwise would have been incurred, has been substantial.

Wilson described the nature of the freight carried under his permit. At the outset, this consisted of fish moving from Eureka to the Los Angeles area. Later, this was expanded to include lumber products, such as plywood. To provide a backhaul, produce and roofing paper were handled northbound from Los Angeles. A few other commodities were added from time to time. The traffic has consisted predominantly of larger shipments, but applicant is unwilling to accept a minimum weight limitation in any certificate

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- (8) Wilson testified that "I built this up around the fish haul, and then I handled produce for Levy-Zentner Produce Company, and I hauled roofing paper for Pioneer Flintcote Company. I am still hauling both items,..." (Tr. p. 11; see also Tr. pp. 429, 430).
- (9) In addition to the commodities mentioned, pipe, tile and frozen bait have moved northbound, and tires southbound. Occasionally, fishing boats have been transported to Los Angeles for repairs and then returned to Eureka.
- (10) Between 50 and 60 per cent of the traffic, Wilson testified, consisted of truckload shipments. Produce and roofing moved in truckload lots, and fish, for the most part, in less-truckloads. In weight the shipments moving northbound ranged from 36,000 to 38,000 pounds; southbound, the spread was greater, varying from 4,000 to 38,000 pounds.

which might be issued. Some commodities, such as frozen bait and fish have moved under refrigeration. In volume, the movement has varied seasonally, it being heaviest from June through September. (11)

An increase in tonnage is anticipated if the operation were certificated. Before filing the application, applicant undertook to survey the traffic which would be available. From conversations had with prospective shippers, he reached the conclusion that a substantial volume would be offered, comprising a variety of products. (12) As to some commodities, expeditious delivery is essential. (13) The existence of a severe rail-car shortage at Eureka, it was said, has accentuated the demand for truck transportation of lumber products including plywood, destined to Los Angeles. Admittedly, a large share of this traffic would be diverted from existing carriers.

The rates to be established were described by a rate expert whom applicant produced. If certificated, applicant would become a party to the bureau tariff which provides rates between

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- (11) During November and December, the volume of fish transported falls markedly, and produce drops to practically nothing. However, some frozen fish is handled to permit the shippers to clear their warehouses. In January and February, there is a heavy produce movement.
- (12) From interviews had with various shippers, Wilson concluded that commodities of sufficient variety would be offered so that he could be considered as a carrier of general freight. Specifically these would include northbound shipments consisting of dry-goods; clothing; machinery and parts; automobile parts, batteries and tires; electrical supplies; plumbing supplies; hardware; tile; food; canned goods; meat and its products; and frozen bait. Southbound shipments would include machinery moving to Los Angeles for repair, and also machinery parts.
- (13) Expeditious transportation would be required, it was said, for such commodities as large carry-all tires, worth at least \$120 each, sent to Los Angeles for emergency repairs; and for logging machinery and equipment moving to Los Angeles for the same reason.

(14)
the affected points. These, it was said, would be single factor rates, identical to the minimum rates shown in Commission Highway Carriers' Tariffs Nos. 2 and 3. Generally, the class rates would apply; however, should the need arise, commodity rates would be established. Upon some of the commodities presently handled, the applicable rates are lower than those shown in the highway carriers' (15)
tariff.

The evidence discloses that applicant is financially qualified to provide the service, if he were authorized to do so. A statement submitted indicates assets as of August 10, 1950, amounting to \$47,690.65 and a net worth of \$21,209.04. Most of his income flows from the transportation of fish, roofing paper and produce. The operations, it appears, have been profitable. (16)

(14) Southwestern Motor Tariff Bureau Local and Proportional Freight Tariff No. 18-A, Cal. P.U.C. No. 10, of J. L. Becler, Agent.

(15) Upon roofing, applicant collects the rail rate; the shipper would pay no higher rate, it was said. Upon fish, the rail carload rate is applied; however, somewhat higher rates are applied to shipments falling within lower weight brackets of 4,000 and 10,000 pounds, respectively. As to milk powder, applicant is not certain whether the shippers would pay more than the rail rate. Upon plywood, the Commission's minimum mileage rate, rather than the rail rate, has been observed. Upon shingles, the Commission's minimum mileage rate has been applied; applicant is not certain whether the rail rate would be established.

(16) Of the total reported revenue for 1949, amounting to \$86,397.66, it appears that \$1,559.25 was derived from traffic other than fish, roofing paper, and produce; \$2,767.15, from operations other than between Los Angeles and Eureka; and \$2,522.10, from leases of equipment to others. The remaining revenue of \$79,549.16 is attributable to the transportation of fish, roofing paper and produce, during that period, between Los Angeles and Eureka. During 1949, applicant drew some \$4,100.00 for his personal account. This, added to the reported net profit of \$8,079.12, would bring his total income for that year, to \$12,179.12, before taxes.

Applicant was questioned at some length regarding the time consumed in performing the scheduled operation. Over the proposed route, via U. S. Highway 101, the total distance between Los Angeles and Eureka is 740⁽¹⁷⁾ miles. Under the established schedule, the trip would be completed within a total elapsed period of 19⁽¹⁸⁾ hours; allowing for stops en route, the total traveling time would aggregate approximately 18⁽¹⁹⁾ hours. To complete the trip within 18 hours, an average speed of 41.11 miles an hour must be maintained throughout the entire route.

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- (17) The record indicates that between Los Angeles and San Francisco, the distance via the Coast Route (U. S. Highway No. 101) is 450 miles; and that between San Francisco and Eureka, the distance via U. S. Highway No. 101 is 290 miles. Estimates varied slightly, but these figures may be accepted as representing the distance traveled in providing this service. Thus, the total distance between Los Angeles and Eureka over this route would be 740 miles.
- (18) The schedule appearing in the application indicates that the trip northbound from Los Angeles would be completed within 19 hours; and southbound from Eureka, within 22 hours. However, it was said, the southbound trip actually would consume 19 hours. This has been the practice in the past. Ordinarily, the southbound truck would arrive at Los Angeles around 1:00 p.m. instead of the scheduled hour of 4:00 p.m., particularly when the trailer stationed at the Los Angeles terminal had been loaded and was ready to proceed northward. In that event, the tractor used for the southbound movement would be needed to provide the motive power for the northbound schedule. Actually the northbound departure scheduled for 3 p.m. would be so dependent upon the timely arrival of the southbound equipment that, in view of the limited number of tractor units available, the 19-hour schedule must be observed southbound if a daily service is to be supplied. For some time, it appears, such a service has in fact been provided, and would be continued.
- (19) Under applicant's proposal, stops would be made en route for drivers' meals or refreshment and to service the equipment, as follows: at Santa Barbara, 15 minutes; at Salinas, 25 to 30 minutes; at Santa Rosa, 5 to 15 minutes; and at Willits, 25 minutes. In the aggregate, these stops would consume at least one hour, and possibly a longer period.

(20)

This schedule, applicant said, could readily be observed. To supply the service, diesel tractors equipped with 275 h.p. motors are used. Assertedly, these enable the equipment to maintain higher sustained speed in the hills than would be possible if lower powered motors were utilized. This would obviate higher speeds along level roads which otherwise would be necessary to compensate for lower speeds through mountainous territory. A sleeper-cab operation is provided, requiring two drivers to accomplish a one-way trip. In performing this service it was said, a speed of from 48 to 53 miles an hour ordinarily has not been exceeded; occasionally, in emergencies, a top speed of 58 miles an hour has been reached. No traffic citations have been received by the drivers, he stated, except for violations of speed restrictions within 25-mile zones.

Over extensive segments of this route, applicant testified, road conditions contribute to delay. Along the Redwood Highway, north of Willits, there are many curves which tend to slow down traffic. Also, the usual urban speed restrictions are encountered in the communities traversed by the highways used.

Shipper-witnesses were called by applicant both at the Los Angeles and at the Eureka hearings. In Los Angeles, witnesses were produced representing some thirteen firms engaged in business there or in nearby cities. Collectively, they deal in a variety

(20) Since establishing the Eureka operation, Wilson stated, this schedule has been observed. Northbound, it was said, 85 per cent of the trips reached Eureka in 19 hours, the remainder being from one to two hours late. The record does not disclose the nature of the performance southbound.

(21) Wilson testified that the drivers' wage scale for performing this service had been approved by the local union at Eureka.

(22)
of commodities. Some of these firms receive shipments from Eureka; others distribute their products in that territory. A large volume of fish, originating at Eureka, is received by

(23)
sea-food dealers. Plywood moves in substantial volume from Eureka to the distributors of that commodity. Northbound, there is a heavy movement of produce, originating in the Los

Angoles area, and also, a substantial movement of roofing material. (24)
The other commodities mentioned move in smaller quantities.

These witnesses stressed the need for an expeditious service. Fish, it was pointed out, must be delivered promptly to avoid spoilage; second morning delivery is essential. Other products, it was stated, also require speedy transportation. For competitive reasons, such commodities as produce and roofing material must be handled with dispatch.

At Eureka, witnesses were called representing ten firms

(22) At the Los Angeles hearing witnesses were produced representing four wholesale distributors of fish and sea food; one wholesale produce distributor; one distributor of dried fruit, beans and bakers goods; one manufacturer and distributor of asphalt composition roofing products; two dealers in plywood; one manufacturer of candy; one distributor of machinery and caterpillar tractors; one dealer in dairy products; and a chain store, with headquarters in Los Angeles, engaged in the distribution of ladies ready-to-wear goods, maintaining branches at various cities, including Eureka.

(23) Shipments of fish received by three distributors in the Los Angeles area range, collectively, from approximately 380,000 pounds monthly, during the spring and summer seasons, to about half that amount during the remainder of the year.

(24) Produce moving to Eureka ranges from 250,000 to 300,000 pounds monthly, from December through July. Roofing materials would average three truckloads monthly, throughout the year.

(25)
engaged in business there or at adjacent points. All of them draw upon the Los Angeles market as a source of supply for the products in which they deal. Both the volume and frequency of their shipments vary; the tonnage received by some is substantial. Some anticipated that the volume would increase, if applicant's service were established. All voiced a need for expeditious service. In some instances, this rests upon the necessity for replenishing small inventories where the turnover is quite rapid. Often, shipments are of an emergency character, requiring prompt delivery. This is true also as to perishable commodities, such as frozen bait which moves from Long Beach. It was stipulated by the interested parties that some 20 additional shippers, if called as witnesses, would testify similarly to those who already had been produced.
(26)

(25) The shippers produced at Eureka were called on behalf of firms or establishments engaged in a wide variety of business. They comprised representatives of distributors of general and heavy hardware; building materials; poultry supplies; pumping, heating and refrigeration supplies, as well as caterpillar tractors; refrigeration equipment and store fixtures; logging and mill supplies; men, women and children's wear and also household goods; and a wholesale distributor of fish bait (the latter having been called at the Los Angeles hearing).

(26) Of the shippers covered by the stipulation (entered into at the Eureka hearing), sixteen (of whom 15 are situated at Eureka, and one at Arcata) deal in, or are engaged in the distribution of automotive parts, supplies, electrical equipment and tires; hardware, paint and building materials; gas heaters; electrical appliances; electrical equipment; furniture and floor coverings; men's clothing and furnishings; sporting goods; marble and stone; and produce. In the course of business, they receive supplies from Los Angeles. Three other firms, located at Eureka, ship fresh and frozen fish from Eureka to Los Angeles. Another shipper (covered by stipulation made at the Los Angeles hearing), which is engaged in the operation of a lumber mill near Fortuna, receives machinery parts from Los Angeles and ships machinery parts to Los Angeles for repair and return.

These shippers emphasized the importance of the Los Angeles market. For example, a dealer in heavy hardware purchases electric motors there because of price advantages. A dealer in plumbing supplies purchases tools there, which are not obtainable elsewhere. The manager of a large department store stated that Los Angeles was far more important than San Francisco as a source of supply for women's and children's wear, it having become in recent years the second largest market in the country for these products. Purchases in Los Angeles ran as high as \$300,000 annually, he said. His views were buttressed by those of the head of a chain store system, centering in Los Angeles, which distributes ladies ready-to-wear goods.

The shippers voiced their objections to the service accorded by the existing carriers. Several pointed out that rail shipments, moving between Eureka and Los Angeles, consume some five or six days in transit. Shipments move by truck more expeditiously. However, delays result from the interchange of traffic between connecting carriers at San Francisco. ⁽²⁷⁾ Moreover, some commodities, particularly those of a perishable nature, are thereby subjected to deterioration, it was stated. Instances of damage thus occasioned were supplied.

All of the shippers called, both at Los Angeles and Eureka, declared that if applicant's operation were certificated, they would use the service for the transportation of their products. None conditioned this statement upon the establishment of any rate or level of rates. Some of them had used applicant's service, as a permitted carrier, and had found it satisfactory. The remainder

(27) Several shipper-witnesses testified that truck shipments, interchanged between carriers at San Francisco, were in transit for three or four days and even longer at times.

(28)

were not familiar with it.

The industrial growth and development of Eureka and the territory surrounding it were described by the secretary of the Chamber of Commerce of that community. Eureka is the center of a trading area which includes Humboldt and the adjoining counties. For many years there has been a steady growth in population ⁽²⁹⁾ much of which is concentrated around Humboldt Bay. The principal industries are lumbering, fishing and dairying, ranking in that order.

Humboldt County, it was said, leads in the production of lumber in California. With the depletion of the timber supply throughout the Pacific Northwest, the industry has turned southward to this territory. Since 1941, the number of mills within the county has increased from 24 to 211. Of these, 20, including some of the largest, are located within an air-line distance of 15 miles from Eureka. Lumber production has grown commensurately ⁽³⁰⁾. During the past four years, three plywood mills have been established at Eureka and nearby points on Humboldt Bay.

(28) Of the 23 shippers produced by applicant, ten had used his service as a permitted carrier, but 13 had not done so. Of the 13 Los Angeles shippers called, eight had used, and five had not used, this service. Two of the ten Eureka shippers called had used the service; eight had not done so.

(29) The population of Eureka itself has increased from 15,762 in 1930, to 22,962 in 1950. During the same period, Humboldt County grew from 43,189 to 67,862. The population of Arcata is 3,720.

(30) Since 1941, it was shown, lumber produced in Humboldt County has increased from 365,762,000 to a total somewhat exceeding one billion board feet.

Lately, the commercial fishing industry centered at Eureka has experienced considerable growth. Recently, the citizens of Eureka authorized a municipal bond issue of \$200,000 to finance the construction of a boat basin which would accommodate the fishing fleet. Some 220 boats, registered at Eureka, are engaged in deep-sea fishing. About 180 additional boats travel from Washington and Southern California ports to participate in commercial fishing off the Humboldt coast, making Eureka their headquarters for the time being. The annual catch has increased from five million pounds in 1940-43, to approximately 25 million pounds in 1948.

For many years, dairying has constituted one of the major activities of Humboldt County. In volume, the production has remained fairly stable, amounting in 1950 to over \$6,000,000. Eureka is the trading center for the industry.

Protestants described the service which they provide, respectively. Such a showing was submitted by Southern Pacific Company, Northwestern Pacific Railroad Company and Pacific Motor Trucking Company, Pacific Freight Lines and Pacific Freight Lines Express, Intercity Transport Lines, Intercity Motor Lines and Eureka-Garberville Truck Line and Callison Truck Lines. The service afforded by Moser Frozen Food Freight Line also was described.⁽³¹⁾

Callison operates as a highway common carrier between

(31) Hereafter, Southern Pacific Company, Northwestern Pacific Railroad Company and Pacific Motor Trucking Company will be referred to, respectively, as Southern Pacific, Northwestern Pacific and Pacific Motor; Pacific Freight Lines and Pacific Freight Lines Express, collectively, as Pacific Freight; Intercity Transport Lines, Intercity Motor Lines and Eureka-Garberville Truck Line, collectively, as Intercity; Callison Truck Lines, as Callison; Moser Frozen Food Freight Line, as Moser; and California Motor Express, Ltd., as California Motor.

San Francisco and East Bay, and the territory extending from Garberville to Eureka and Arcata. ⁽³²⁾ Since 1948, he has handled general commodities; previously, his operating authority was somewhat limited. ⁽³³⁾ Terminals are maintained at Eureka (where headquarters are located), and also at San Francisco and Garberville. ⁽³⁴⁾ To provide the service, some 43 units of equipment. ⁽³⁵⁾ of various types, are used.

An overnight service is afforded, available daily ⁽³⁶⁾ excepting over week ends. Trucks leave Eureka between 4 and 7:30 P.M., reaching San Francisco ten hours later, and before 6 A.M. on the following morning, if possible. ⁽³⁷⁾ Pickup and

(32) See Decision No. 41,367, dated March 23, 1948, in Application No. 27,991.

(33) During the three years preceding 1948, Callison's certificate authorized only the transportation of fish, fishing equipment and nursery stock. Previously, he had operated as a permitted carrier.

(34) At Eureka, both office and shop facilities are situated at the terminal. There, a dock is also maintained. The San Francisco terminal is located near Pier 1, on the waterfront. Callison also uses the East Bay Drayage terminal, in Oakland. Teletype facilities have been installed both at the San Francisco and the Eureka terminals.

(35) This equipment consists of 12 tractors, 14 trucks, 5 trailers and 12 semi-trailers. The trucks, trailers and semi-trailers are mostly van-type. Two semi-trailers are designed to provide mechanical refrigeration for perishable freight.

(36) There is no outbound service from Eureka on Saturday, nor from San Francisco on Sunday. Ordinarily, shipments picked up or received, on a given day, at Eureka are delivered at San Francisco on the following day. The same is true as to shipments moving from San Francisco to Eureka.

(37) Ordinarily, five line-haul units are dispatched from Eureka every evening except Friday, when only one leaves that terminal. Other than one unit, which picks up freight en route at Garberville, they proceed through to San Francisco.

delivery service is provided both at Eureka and at San
(38)
Francisco.

Arrangements have been made with Moser, so Callison testified, to handle fresh or frozen fish moving from Eureka to Los Angeles. Such shipments are interchanged between those carriers at San Francisco. (39) Semi-trailers carrying full loads of 20,000 pounds or more would be turned over to Moser, in exchange for similar equipment, thus avoiding physical interchange of lading. However, it appears, there have been few instances where this actually has occurred. The volume of freight interchanged has been substantial. The traffic has moved under combination of local rates.

Under a joint through rate arrangement, consummated in September, 1949, with California Motor, Los Angeles traffic is physically interchanged with that carrier at San Francisco. This applies only to shipments falling within the "any quantity" weight and rate bracket, being limited to those weighing 4000 pounds or less. Under these rates there is a substantial daily movement, which is heavier northbound than southbound. The volume of this traffic was not shown.

(38) Pick-up trucks are stationed both at San Francisco and Eureka to provide the pickup and delivery service. At Eureka, this service extends north to Arcata, and south to Scotia, including such points as Fields Landing and Fortuna.

(39) This traffic is expedited, it was said. Shipments interchanged with Moser reach San Francisco by 6 a.m. on the morning following their departure from Eureka.

This protestant has participated in the interline traffic between Los Angeles and Eureka. This includes fish moving from the Eureka area, particularly during the period, recurring annually, when the catch reaches its maximum size. Some produce is handled northbound. Since this is a seasonal movement, occurring at a different time than the peak of the fish movement, one does not counter-balance the other. He also has hauled electric motors originating in Los Angeles.

Callison undertook to rebut the testimony offered by some of the shipper-witnesses whom applicant had called. Though favored by sports fishermen, fish bait originating in Los Angeles would not be used by commercial fishermen, as suggested by a Eureka dealer, he said. Instead, the latter customarily would employ spinners. Milk powder originating at Smith River, north of Eureka, had been rejected because the owner insisted that it move to Los Angeles at the rail rate, which was regarded as too low. Both shingles and plywood have been offered at rail rates, apparently because of the existing rail-car shortage. In view of the labor involved and the time consumed in handling plywood, particularly, this rate was not considered attractive.

(40) For many years, Callison has handled a large share of the fish moving from the Eureka territory to the San Francisco-Oakland market. As pointed out above, he also has turned over to Moser a substantial tonnage for transportation to Los Angeles.

An expeditious service has been provided, Callison testified, which has accommodated all traffic offered. Each evening the docks are cleared of accumulated freight. Shipments are delivered promptly. Generally, the service afforded through traffic moving between Eureka and Los Angeles has proved satisfactory to the shippers, he said. Some complaints had been directed against Moser prior to the assumption of control by its present management, in May, 1949; since then, however, none has been received. The traffic currently interchanged with both Moser and California Motor is attractive, he said; its loss would be detrimental to the business.

Moser's operations were described by its Vice President and General Manager. It operates as a highway common carrier between San Francisco and Los Angeles, among other points, supplying a refrigerated transportation service for perishable commodities. ⁽⁴¹⁾ Mechanically refrigerated equipment is used. Shipments of fresh or frozen fish, originating at Eureka, are interchanged with Callison at San Francisco. Ordinarily, they reach Los Angeles in time for delivery to dealers before 5 a.m. on the second morning after leaving Eureka. Generally, the freight has been physically exchanged between the two carriers. When necessary to expedite the movement, there occasionally has been an interchange of rolling equipment. However, this was not regarded as an important or essential feature of the service. This additional southbound interline traffic tends to counterbalance the northbound tonnage, which predominates.

(41) Between San Francisco and Los Angeles, the time consumed in transit averages 12 hours, it was said. In addition, at least two hours are required to complete the physical interchange of lading between Callison and Moser, at San Francisco.

Intercity's operations were described by a partner and official of this group of carriers. His testimony discloses that Intercity Motor Lines operated as a highway common carrier between San Francisco and Garberville; and that Eureka-Garberville Truck Line operated similarly between Garberville and Arcata. These operations have since been merged; Intercity Motor Lines now provides such a service between San Francisco and Arcata. (42) Intercity Transport Lines, Inc. operates over the lines of these carriers as an express corporation. Equipment handling through express shipments may be interchanged between the underlying carriers at Garberville. A terminal is situated at Eureka.

For several years, Intercity Transport Lines, Inc., has maintained joint rates with both California Motor and Valley Express Company. Freight is physically interchanged between the participating carriers at San Francisco. Shipments picked up in Los Angeles are afforded second morning delivery at Eureka. The traffic moving under these joint rates has been substantial in volume. Between Los Angeles and Eureka, it has averaged some 200,000 pounds monthly, being approximately seven per cent of the total tonnage carried by Intercity between all points which it serves. Assertedly, no complaints have been received regarding the service provided, under these arrangements, between Los Angeles and Eureka.

(42) Under Decision No. 45073, rendered December 5, 1950, in Application No. 31843, Intercity Motor Lines was authorized to acquire the operative rights of Eureka-Garberville Truck Line. Pursuant to this decision, Intercity Motor Lines is authorized to provide through service, as a highway common carrier, between San Francisco and Arcata and designated intermediate points, including Eureka.

Intercity could ill-afford to undergo any curtailment of this business, it was said. Because of the distance traveled in reaching the Eureka territory, as well as its relatively small population, that region is regarded by this protestant as marginal. Of the interline traffic supplied through the California Motor and the Valley Express connections, that flowing to and from Eureka is considered the most important. This yields the greatest revenue, the rates being higher there than at intermediate points. The loss of some of this tonnage, if applicant were certificated, is anticipated.

The railway less-carload freight service was described. Shipments picked up by truck in Los Angeles during the day are brought to the Southern Pacific main freight station, where they are loaded on a merchandise train which departs that evening. Traveling at passenger schedule speed, this train reaches San Francisco, via the Coast route, early the next morning. There, the freight is transferred to trucks, conveyed to San Rafael, and loaded on the Northwestern Pacific mixed train which leaves that evening. Upon arrival at Eureka the next morning, the freight is distributed by truck. A car is set out at Fortuna. Second morning delivery is afforded the territory extending from Fortuna

(43) At Los Angeles, the cut-off time for pick up calls is 3 p.m.; freight will be received at the station up to 4:45 p.m. The merchandise train leaves Los Angeles at 6 p.m., reaching San Francisco on the following morning at 6:23 a.m. Freight is transferred by truck over Golden Gate Bridge to San Rafael, where it is loaded on a mixed train leaving there at 7:30 p.m. Next morning, this train arrives at Eureka at 8 a.m. The Fortuna car is set out at 7 a.m.

to Eureka; at Arcata, second afternoon delivery is supplied. (44)

Southbound less-carload traffic moves by rail overnight to Petaluma, where it is unloaded on the following morning and transferred by truck to San Francisco. Reaching that point too late to connect with the merchandise train which leaves that evening, it is held over there for another day, arriving at Los Angeles on the third morning. There it is distributed by truck. (45) The volume of less-carload traffic moving between Los Angeles and the Eureka area was not shown.

The advantages incidental to the use of pallets were related. At San Francisco, freight consigned to the Eureka territory is placed in palletized containers, resting on skids, in which form it moves to destination. These containers are employed for all shipments except the relatively few which are too large or bulky to fit them. This practice, it was said, tends to expedite the process of loading and unloading freight, and to minimize damage claims attributable to handling of shipments in transit.

The showing offered by Pacific Freight Lines and Pacific Freight Lines Express was embodied in a stipulation, in which the interested parties have joined. From this it appears that Pacific

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- (44) From Fortuna, freight is distributed by contract drayman throughout the territory extending from South Fork to, but not including, Eureka. Among the points thus served are Loleta and Fortuna. At Eureka, freight is delivered by Pacific Motor. A contract drayman transports the freight from Eureka to Arcata, and there distributes it locally.
- (45) Pacific Motor performs the pick up and delivery service both at Los Angeles and at Eureka, and also the transfer service between San Francisco and San Rafael. As indicated above, pick up and delivery service is supplied through contract draymen at other points involved.

(46)
Freight conducts a motor truck service for the transportation of general commodities between Los Angeles and the San Francisco Bay territories. A consistently dependable overnight service is afforded. Adequate equipment is available for this purpose. At San Francisco, Pacific Freight interchanges with other carriers freight moving to and from Eureka. Though not participating in this traffic to any appreciable extent, it can accommodate all that may be offered; no such shipment ever has been refused. All freight claims presented have been settled efficiently, courteously and expeditiously. No complaints regarding the Los Angeles-Eureka service have been brought to the attention of the general manager.

Protestants questioned the feasibility of applicant's proposed time-schedule. Callison testified that, in conducting his operations between San Francisco and Eureka, a 10-hour schedule ordinarily is observed, which he considered safe and reasonable. (47) During the winter season, he stated, this schedule cannot be maintained, the trip then requiring some 11 or 12 hours. The drivers' pay scale, adopted with union sanction, is based upon the 10-hour period actually required to complete the journey.

Road conditions between San Francisco and Eureka were described. The grades encountered along the Redwood Highway, it was said, usually are rather short. Instances were cited of grades ranging from one to three miles in length. The road was

(46) Pacific Freight Lines operates between Los Angeles and San Francisco Bay territories, among other points, as a highway common carrier. Pacific Freight Lines Express provides a service as an express corporation.

(47) Two stops are made en route, one for fueling the equipment and the other, for drivers' meals.

characterized as narrow and winding, with many sharp curves. There are many sections where this situation exists. Moreover, restricted speed zones have been established in various communities located along this route. (48) These conditions contribute to delay the operation of trucks over the highway.

Drivers have been instructed to observe legal speed restrictions, Callison testified. A driver cited for speed violation must himself pay any fine which might be imposed. They have been advised by their union officials that any driver found operating his truck faster than fifty miles an hour, between San Francisco and Eureka, would be subjected to a fifty dollar fine by the union.

Callison disagreed with applicant regarding the claimed superior efficiency of the 275 h.p. diesel motor used by the latter. This, he said, is essentially a 200 h.p. motor to which a super-charger has been added. Although it might provide increased power for operation through the hills, this could be accomplished only at the cost of much higher maintenance charges, it was said. In his opinion, the 200 h.p. diesel motor is capable of propelling trucks efficiently over the Redwood Highway as rapidly as considerations of safety would permit. Many of his power units are thus equipped, he testified; in the course of actual operation, these motors have proved adequate and satisfactory.

(48) For example, at Garberville, the authorities have requested the observance of local speed restrictions by truck operators. Failure to heed this admonition, they said, might necessitate stationing a traffic officer there to insure compliance.

In rebuttal, applicant called a safety engineer, employed by Truck Insurance Exchange, whose testimony dealt with highway conditions and truck operations between Los Angeles and Eureka.⁽⁴⁹⁾ In the performance of his duties, he is required constantly to observe the operations of various highway carriers. Included among them was the applicant.

The witness described highway conditions, with which he was familiar. Excepting some 20 per cent of the total distance, where grades are encountered and mountainous territory is traversed, the Coast Highway between Los Angeles and San Francisco is susceptible of operation by transport trucks at speeds exceeding 40 miles an hour, he stated. Likewise, in his opinion, much of the route between San Francisco and Eureka could be covered at similar speeds. He estimated the total extent of winding road, where lower speed restrictions prevail, as not exceeding 100 miles.

He expressed the opinion that applicant's proposed schedule is both safe and feasible. He estimated the average running time by major truck lines between Los Angeles and San Francisco as being from 9-1/4 to 9-3/4 hours; and from San Francisco to Eureka, as six to eight hours. This includes no allowance for meal or service stops. The overall schedule of 19 hours could

(49) To promote safe operation, particularly by those insured through the Exchange, the latter continuously investigates motor truck operation generally over the highways of California and adjoining states. These observations include speed checks, as well as other matters affecting the equipment, which might indicate hazardous conditions.

(50)
safely be maintained, he said. The 275 h.p. diesel motor, he believed, would be suitable for this operation; trucks so powered could climb the hills rapidly, and maintain a high average speed.

The maximum speed limit of 40 miles an hour, applicable to transport trucks of the type ordinarily used by trucking concerns, is not generally observed, the witness stated. Within his knowledge, this is true as to applicant's present operations between Los Angeles and Eureka. In his judgment, a 50-mile speed limit would be safer than the existing restriction. Trucks traveling no faster than 40 miles an hour impede other vehicles which normally move at higher speeds, thus forcing them to go around. If a 50-mile limit were established, such hazards could be avoided, he asserted, since trucks then would keep up with the normal flow of traffic. Such a speed, he believed, could safely be maintained over the route and between the points involved.

In the light of this showing, should applicant be granted the certificate sought? We shall consider the essential characteristics of the operation contemplated, the nature of the service supplied by the existing carriers, and the questions of policy involved.

The service which applicant would provide, if certificated, is one devoted primarily to the transportation of a few commodities,

(50) This witness has observed the operation of applicant's equipment over the highways, both north and south of San Francisco. In his opinion applicant operates safely, though at times his trucks, in common with others, have exceeded the 40-mile speed limit. The witness estimated the distance from Los Angeles to San Francisco, via the Coast Route, as 435 miles; and from San Francisco to Eureka, as 266 miles. He was somewhat uncertain as to the latter figure.

moving frequently and in heavy volume. Such a service has been afforded in the past, under highway carrier permits; it would be continued in the future. Essentially, it rests upon a substantial tonnage of fish handled southbound; and of produce and roofing materials, moving northbound. Other commodities, though accepted, and though their transportation hereafter would be solicited, are subordinate to those mentioned.

An expeditious service must be provided, if applicant is to participate in this traffic. Speed is indispensable in the transportation of fish, which, in order to meet the demands of shippers, must reach the Los Angeles market during the early morning hours of the second day following departure from Eureka. As stated, expedition is an important factor in the carriage of produce and roofing paper. It also is essential in the movement of ready-to-wear goods, where stocks must be quickly replenished; and of machinery stock and repair parts, where frequently emergency requirements must be met. As to these latter commodities, Los Angeles is a major source of supply.

To accommodate the traffic, an expedited service would be provided. Under the proposed time schedule (which corresponds to that currently followed), the trip between Los Angeles and Eureka would be performed within an elapsed period of 19 hours. This schedule would govern the traffic flowing in each direction, such a course being necessary if a daily service is to be supplied.

It seems clear that applicant could not observe the proposed time schedule without violating legal speed restrictions. As stated, the schedule contemplates that the trip between Los Angeles and Eureka - a distance of 740 miles - would be completed

in 18 hours actual running time. At this rate, the average speed would be 41.11 miles an hour. For equipment of the type used in this operation, the maximum speed permitted by law is 40 miles an hour. (51) If the average speed maintained is 41.11 miles an hour, it is evident that some parts of the trip would be accomplished at speeds exceeding the prescribed limitation of 40 miles an hour. (52)

(51) Section 515, Vehicle Code, provides, in part, as follows:

"(a) No person shall operate upon any highway any of the following vehicles when equipped entirely with pneumatic tires at any speed in excess of 40 miles per hour:

"(1) Any motor truck and trailer.

"(2) Any motor truck alone or truck tractor with semi-trailer having a gross weight, of vehicle and load or of such vehicles and load of 25,000 pounds or more."

(52) This conclusion would seem to be axiomatic. If confirmation were needed, reference may be made to Decision No. 44673, in Case No. 5136 (Re Safety Investigation, 50 Cal. P.U.C. 29), which was received in evidence by reference, in the present proceeding. The tabulation appearing at page 66 indicates the relationship between actual running time and average speed, shown by test runs made between Los Angeles and the Bay Area over both the Coast and the Valley routes. On some trips, the legal maximum speed limit of 40 miles an hour was strictly observed; during one round trip a maximum speed limit of 50 miles an hour was observed. A summary appears below:

Typical Test Runs between Los Angeles and Oakland, via U. S. Highway 99.

	Northbound		Southbound	
	40 MPH	50 MPH	40 MPH	50 MPH
Maximum Speed				
Running Time	Hr. Min. 13:21	Hr. Min. 11:17	Hr. Min. 13:8	Hr. Min. 11:22
Av. M.P.H.	30.2	35.7	32.5	35.4

Typical Test Runs between Los Angeles and San Francisco, via U. S. Highway 101.

	Northbound		Southbound	
	40 MPH	50 MPH	40 MPH	50 MPH
Maximum Speed				
Running Time	Hr. Min. 13:36	Hr. Min. 11:49	Hr. Min. 13:23	Hr. Min. 11:35
Av. M.P.H.	32.1	37.0	32.6	37.7

Thus, in those instances where the 40-mile limit was observed, the average speed via the Coast Route northbound was 32.1 miles an hour; where the 50-mile limit was observed, it was 37.0 miles an hour. Southbound, a similar relationship appears. An average speed of 41.11 miles an hour would indicate, therefore, that during the course of the trip, speeds above 50 miles an hour necessarily would be maintained.

(Contd next page)

Moreover, it was admitted that, in maintaining his schedule, applicant ordinarily would reach maximum speeds ranging from 48 to 53, and occasionally 58, miles an hour.

We shall consider the operations of the existing carriers. Collectively, they are well established and dependable; they possess sufficient facilities to supply the service offered. Daily overnight service (with the usual exceptions) is furnished between Los Angeles and San Francisco, and also between San Francisco and Eureka. By mutual arrangement, through traffic between Los Angeles and Eureka is interchanged between connecting carriers at San Francisco. Some of this moves under joint rates, in which certain carriers participate. Under some circumstances, equipment carrying refrigerated perishable freight is exchanged by certain motor carriers, thus avoiding physical transfer of lading.

The service provided by these carriers was shown to be adequate. Generally, second-day delivery is afforded traffic moving between Los Angeles and Eureka. Shipments of fish reach the Los Angeles market, early on the second morning following their departure from Eureka. Some delays have occurred in effecting the interchange of traffic between connecting carriers at San Francisco, but, on the whole, the service has been performed expeditiously.

(52) (Cont'd)

These figures also must be considered in connection with the statement of applicant's witness, called on rebuttal, that the average running time maintained by the major truck lines between Los Angeles and San Francisco, where adequate power is employed, ranges from 9-1/4 hours. The foregoing summary indicates that, at 50 miles an hour, the recorded running time was 11 hours 49 minutes northbound, and 11 hours 35 minutes southbound, via the Coast Route. It would seem apparent that trucks must travel at a speed somewhat higher than 50 miles an hour in order to complete the trip within the periods mentioned by the witness.

These carriers anticipate impairment of their service through tonnage diversion, if applicant should enter the field. They now handle a substantial volume of through traffic between Los Angeles and Eureka, it was shown. Admittedly, applicant expects to share in this business. Notwithstanding its recent growth, the Eureka territory is somewhat circumscribed in its tonnage potentialities. Undoubtedly, the loss of a substantial share of the Los Angeles-Eureka traffic would be keenly felt, particularly by the carriers serving this area locally.

We turn now to the major question of policy involved. Should the Commission, through the issuance of a certificate of public convenience and necessity, sanction an operation which could be provided only in violation of statutory speed restrictions? The 19-hour schedule between Los Angeles and Eureka is an indispensable element of applicant's offer of service. The support of applicant, voiced by shipper-witnesses, hinges upon it. It essentially differentiates applicant's proposal from the service currently afforded by existing carriers.

Decision No. 44673 (Re Safety Investigation, supra) dealt with many phases of highway carrier operations. Among them was the subject of speed, which was thoroughly explored. Proposals to modify existing legal speed restrictions were discussed. Various interests contended that the existing 40-mile maximum truck speed limit prescribed by Section 515, Vehicle Code, was unreasonable, unrealistic and antiquated. Assertedly, it had contributed to

traffic congestion on the highways, with consequent hazard; it had promoted uneconomical operation; and it had been responsible for a breakdown in enforcement. It was urged that this limitation be raised to 45 or 50 miles an hour, and then strictly enforced. The Commission concluded, however (50 Cal. P.U.C., at pp 66, 67), that the disparity between the speeds permissible for private passenger cars and commercial vehicles was a major factor contributing to traffic accidents. Rather than increase the speed limit - a proposal found to be inconsistent with the facts - the appropriate remedy, we said, lay in making uniform the allowable speeds for all forms of highway transportation. Accordingly, it was recommended (id., pp 67, 85, 87) that the matter be brought to the attention of the Legislature for further consideration.

At the ensuing legislative session, held in 1951, no action was taken to modify existing speed restrictions applicable to commercial vehicles such as those here involved. In this respect, Section 515, Vehicle Code, stands unchanged. Operations of the type which applicant would conduct, are still controlled by the 40-mile speed limit.

Speed limitations governing the operation of vehicular traffic over the public highways are grounded upon constitutional or statutory provisions. In a proceeding of this nature we should not substitute our own views for those of the legislature, if our views differ from applicable statutory provisions, although it may well be that the Commission is empowered to do so by virtue of Article XII of the Constitution and Section 768 of the Public Utilities Code. Hence, we consider ourselves bound by the 40-mile restriction. Testimony in the present record to the effect that

motor carriers generally have ignored the 40-mile speed limit, and that they safely could operate at higher speeds, is irrelevant and therefore must be disregarded.

The objectionable features of applicant's proposal could not be overcome by granting a certificate subject to the condition that, in performing the service, applicable speed limits should be observed. If applicant's schedule were slowed down to a point where the operation would conform to such restrictions, the service then would offer no appreciable advantage over that provided by existing carriers. True, an interchange of traffic is involved in their operations, but this should be unobjectionable if that service were adequately performed. In view of the practical necessity of adjusting the time schedule to convenient hours for arrival and departure at each terminal (making due allowance for suitable pickup and delivery), it is doubtful whether applicant could provide a service materially faster than that now available.

Upon this record, we cannot authorize the operation which applicant seeks to establish. The service afforded by the existing carriers is adequate; the entrance of another carrier would tend to impair their ability to provide their service. Moreover the operation, to be successful, must be conducted in violation of existing law.

We are refusing, in part, to certificate this carrier because his proposed operations would necessarily violate the speed restrictions established by the Vehicle Code. However, frankness and candor require us to point out that certificated and permitted carriers as well as proprietary operators, both passenger and freight, habitually violate these speed restrictions while operating upon the highways of this State. The evidence indicates that such violations are the practice rather than the exception.

Upon reviewing and considering the facts shown of record, the Commission now finds that public convenience and necessity do not require the establishment and operation of the service which applicant seeks authority to conduct, as a highway common carrier. Accordingly, the application will be denied.

O R D E R

Application as above-entitled having been filed, a public hearing having been held thereon, the matter having been duly submitted, and the Commission being fully advised in the premises:

IT IS ORDERED that Application No. 31274 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 6th day of November, 1951.

A. T. Anderson
President

Justin J. Casanova

Harold P. Hille

Herbert P. Potter

John E. Decker
Commissioners