

ORIGINAL

Decision No. 46624

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC FREIGHT LINES, a corporation,)
and PACIFIC FREIGHT LINES EXPRESS, a)
corporation,)

Complainants,)

v.)

Case No. 5232

SOUTHERN CALIFORNIA FREIGHT LINES, a)
corporation)

Defendant.)

Gordon & Knapp, by Frederic A. Jacobus, for
complainants; H. J. Bischoff, for defendant;
Robert W. Walker and Matthew H. Witteman, by
Matthew H. Witteman, for The Atchison, Topeka
& Santa Fe Railway Company and Santa Fe
Transportation Company, interveners.

O P I N I O N

Complainants allege, in substance, that by publication of certain original and revised tariff pages effective in August and September, 1950, defendant, in violation of operative right restrictions and under authority purportedly conferred by 1941 and 1945 amendments to Section 50-3/4 (c) of the Public Utilities (1) Act, has named rates for local highway common carrier service between Los Angeles and a number of communities in the territory (2) between Los Angeles and San Bernardino. Additional causes of

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- (1) Included in Public Utilities Code as Sections 1066 and 1063, respectively, effective September 22, 1951, as amended.
 - (2) The tariff publications complained of are: Southern California Freight Lines Local, Joint and Proportional Freight Tariff No. 6, Cal. P.U.C. No. 6 - 4th Revised Page 9, 7th Revised Page 10, 2d Revised Page A-20-A, Original Page AA-20-A, Original Page AB-20-A, 4th Revised Page 54, 5th Revised Page 56, 11th Revised Page 7, 8th Revised Page 8, 3d Revised Page 8-A, 2d Revised Page 8-B, 1st Revised Page 110-A, Original Page 110-AA, Original Page 56-A, 5th Revised Page 57, 5th Revised Page 58, Original Page 112. Effective dates are variously August 25 and

(Contd next page)

action allege abandonment of any right by defendant to publish rates under the 1941 amendment to Section 50-3/4 (c) of the Act and also seek reconsideration of the Commission's informal action declining to suspend the questioned tariff pages and rates, as stated in a letter to complainants dated September 8, 1950, a copy of which is attached to and made a part of the complaint by appropriate reference. Cancellation of the rates and charges complained of is requested.

Defendant admits the filing and publication of the questioned tariff pages, but it denied generally complainants' assertions as to lack of authority and abandonment of rights under the amendment.

The case was submitted on briefs following a public hearing held April 10, 1951, before Examiner Gregory at Los Angeles. The basic facts are not in dispute. The issue is whether defendant's operative rights, together with the provisions of Section 50-3/4 (c) relied upon, afford an adequate legal foundation for publication of the tariff revisions.

In 1941 the legislature amended Section 50-3/4 (c) of the Public Utilities Act to provide in part as follows:

"Any one highway common carrier may establish through routes and joint rates, charges, and classifications between any and all points served by such highway common carrier under any and all certificates or operative rights issued to or possessed by such highway common carrier."

(2) Contd.

September 7 and 25, 1950. The service complained of, resulting from the above tariff publications, is local service between: Los Angeles, on the one hand, and Temple City, Arcadia, Monrovia, Garvey, Rosemead, El Monte, Spadra, Pomona, Chino, La Verne, Claremont, Ontario, Upland, Guasti, Cucamonga, Fontana, Rialto, Pedley, Sparrland, Mira Loma and adjacent territory.

In 1945 Section 50-3/4 (c) was further amended to exempt highway common carriers from the requirement of obtaining a certificate:

"...for the performance of pickup, delivery, or transfer services by such carrier within such carrier's lawfully published pickup and delivery zones insofar as such pickup and delivery limits do not include territory in excess of three miles from the corporate limits of any incorporated city or town or three miles from the post office of any unincorporated point."

The certificated operative rights relied upon by defendant were acquired by transfer from various predecessors. They are summarized in Appendix "A" to this decision.

Defendant contends that by virtue of the operative rights held pursuant to those decisions and others to be discussed later, together with the permissive authorization conferred by the 1941 and 1945 amendments to Section 50-3/4 (c) of the Public Utilities Act, it has the right to name rates and provide service between Los Angeles and the various points east thereof to San Bernardino and Riverside as set forth in the tariff revisions in question.

A tabulation, based upon defendant's statement of its operative authority to and from certain points intermediate between Los Angeles and Colton (Exhibit 2) and the testimony of its traffic manager, indicates the specific authority claimed for each point for which mileages (rates) from Los Angeles are named in the revised tariff publications. The tabulation is shown as Appendix "B" to this decision.

The record shows, and we find as a fact, that prior to September 7, 1950, defendant had not published rates or held itself out to render certificated highway common carrier service between

Los Angeles, on the one hand, and the following points, on the other hand: Pomona, Ontario, Garvey, Rosemead, Chino, La Verne, Claremont, Cucamonga, Fontana, Rialto, Temple City, Wilmar, Monrovia and Arcadia. All of the points named are located on or near main highway routes between Los Angeles and San Bernardino, Colton and Riverside.

We also find as a fact that complainants, prior to September 7, 1950, were, and are now, conducting operations pursuant to authority of this Commission between Los Angeles and San Bernardino, via U. S. Highways 66, 60, 70 and 99, and are rendering service to and from all intermediate points on, along and adjacent to said highways, including service to and from Temple City, Arcadia, Monrovia, Garvey, Rosemead, El Monte, Guasti, Cucamonga, Fontana, Rialto, Pedley, Sparrland, Mira Loma and adjacent unincorporated territory, publishing rates to and from such points in E. J. McSweeney's Local and Joint Freight Tariff No. 7, Cal. P.U.C. No. 2 (Series of C. G. Anthony, Agent).

We further find as a fact that Santa Fe Transportation Company, intervener herein, pursuant to previous operative authority or by virtue of the authority conferred by Decision No. 43355, dated October 4, 1949, in Application No. 27203, renders highway common carrier service between Los Angeles and Fontana via Pasadena, serving all points on the lines of The Atchison, Topeka & Santa Fe Railway Company between Los Angeles and Fontana, including Arcadia, Claremont, Cucamonga, Glendora, Kaiser, Lamanda Park (now part of Pasadena), La Verne, Rialto, San Dimas, Upland and Pomona.

The evidence establishes that defendant's operations since September 8, 1950, between Los Angeles and the various points served by complainants and interveners between Los Angeles and San Bernardino have had an adverse effect, described by one witness as "substantial", upon the operations of the complaining carriers. It is also patent that any operations conducted by defendant in the territory in question prior to September 8, 1950, by virtue of tariff publications or operative rights for which there exists no legal basis and as to which issue has been here joined, also may be deemed to have exerted an unwarranted adverse effect on the operations of complainants and, to the extent that competition existed following inauguration of Santa Fe's less-carload highway service in June, 1950, upon the operations of that carrier as well.

We now turn to a consideration of the validity of defendant's claim to be entitled to conduct the operations in question. It will be appropriate first to indicate briefly the guiding legal principles.

The 1941 amendment to Section 50-3/4 (c) of the Public Utilities Act and the subject matter immediately preceding it are concerned principally with authorizing through service and the incidents thereof rather than a shortening or change of routes. Thus, under the statute, one highway common carrier, without prior approval of the Commission, may give through service from point A to point C where it has acquired two certificates, one to serve over a fixed route from point A to point B and the other from point B to point C. But the amendment does not authorize the carrier to follow a different route between two points merely because it has various certificates covering such points. Nor

does the amendment automatically remove restrictions imposed on operative rights issued prior to its passage. (California Motor Transport Company v. Railroad Commission (1947), 30 C. 2d 184.)⁽³⁾

The Supreme Court of California has also said, in a recent case involving this defendant (So. Cal Frt. Lines v. Public Utilities Commission (1950), 35 C. 2d 586), that by the 1941 changes in Section 50-3/4 (c) the Legislature intended to remove the prohibition against the consolidation, without Commission approval, by a highway common carrier of certificates and operative rights which it, itself, holds, but to maintain such prohibition insofar as concerns the consolidation of certificates held by different carriers. The court, therefore, annulled that portion of the Commission's order which prohibited defendant from consolidating the operative right granted therein, between San Francisco Territory and Los Angeles Territory, with defendant's existing rights. The court, however, did not disturb that portion of the Commission's order which denied defendant's request for extension of its existing highway common carrier rights so as to serve "between Los Angeles and all points it is not presently authorized to serve between Los Angeles and San Bernardino, along Foothill Boulevard and between Los Angeles and Riverside, along Valley Boulevard, including all intermediate and off-route points laterally within 5 miles of each side of the highways followed." (See 48 Cal. P.U.C. 712, 715.)

(3) A 1951 amendment to Section 50-3/4 (c) permits a highway common carrier holding multiple operative rights to establish through routes and joint rates - "Unless prohibited by the terms and conditions of any certificate that may be involved, . . ." (P. U. Code, Sec. 1066) We do not pass upon the effect of that amendment here.

The net result of the foregoing cases appears to be that in order for a highway common carrier to link operative rights under the 1941 amendment to Section 50-3/4 (c), there must be an authorized point of service common to each right and the ensuing service must be rendered through such common point. This is also the well-settled rule followed by The Interstate Commerce Commission in similar cases arising under its jurisdiction.

It is also clear that whatever authority may have been acquired by defendant following the Supreme Court's annulment of the Commission's order forbidding consolidation, it did not thereby secure the right it sought, and which it here asserts, to serve points not theretofore authorized to be served between Los Angeles, San Bernardino and Riverside. Hence, the authority now claimed by defendant, under the 1941 amendment, to serve between Los Angeles and certain points east thereof must be found, if at all, within the terms of the certificates it holds and is subject to whatever limitations those certificates may contain by way of restrictions against service from, to, or between various points. With the foregoing discussion in mind, we turn to a consideration of those certificates.

The two certificates issued to Fletcher and Tremble (later incorporated as Motor Service Express), authorizing service between Los Angeles and San Bernardino and between Los Angeles, Riverside and San Bernardino, contained restrictions forbidding local service between the specified termini and intermediate points and between the intermediate points themselves. (Dec. 6966, App. 4712; Dec. 8403, App. 5107.) These restrictions were later modified to permit Motor Service Express to establish pickup and delivery service between the east line of Ontario and Riverside and between Riverside and San Bernardino, and for three miles on

either side of the roads traversed (except from or to any point in the City of Colton), as an extension and enlargement of the service authorized by Decisions 6966 and 8403. (Dec. 17586, as amended by Dec. 17712, App. 11820.) It is pursuant to these decisions, and to others to be discussed, that defendant claims the right to publish rates between Los Angeles, Pomona, Ontario and Guasti, the latter a point claimed to be within the three-mile lateral right, authorized by Decision 17712, and between Los Angeles and the points of Mira Loma and Pedley, the latter two of which are located on or near the main highway route between Ontario and Riverside.

Whatever authority may have been granted to defendant's predecessor by Decisions 17586 and 17712, it is clear that no specific point of service was therein authorized between the east limits of Ontario and Riverside, or between Riverside and San Bernardino. The essence of pickup and delivery service is the carrier's receipt and delivery of freight at the establishments of the consignor and consignee (East Bay Pickup and Delivery Limits, 48 CPUC 348) as distinguished from over-the-road or line-haul operations between points designated in its certificates. Such authority merely extends the area in the vicinity of a carrier's terminal or previously authorized point of service within which freight may be accepted or delivered at a shipper's or receiver's establishment. We find nothing in Decisions 17586 or 17712 which confers upon defendant's predecessors, or upon defendant, the right to do more than pick up and deliver freight at the establishments of

(4) Since the 1945 amendment to Section 50-3/4 (c), indicated above, no certificate has been required of highway common carriers for the performance of pickup and delivery service within lawfully published pickup and delivery zones not exceeding three miles from incorporated city limits or three miles from the post office of any unincorporated point.

consignors and consignees located within three miles of the highways between the east limits of Ontario and Riverside and between Riverside and San Bernardino (except any point in the City of Colton), as an extension and enlargement of the service authorized by Decisions 6966 and 8403. The restrictions in those decisions, forbidding service to intermediate points, although largely nullified by the subsequent grant of pickup and delivery authority, were not thereby abrogated so as to permit defendant to link up specific points east of Ontario with other operative authority and thus render local highway common carrier service between Los Angeles and such points. Accordingly, we find no merit in defendant's contention, asserted on brief, that "it was authorized to combine routes established under Decisions 6966 and 8403 ... with a route between the east boundary of Ontario and Riverside and three miles laterally of said last named route."

Defendant also claims the right to combine operating authority for service between Riverside, Colton and San Bernardino, on the one hand, and Beaumont, Banning and Coachella Valley points, on the other hand, established by Decision 8965, with other operative authority conferred by that decision between Los Angeles, Pomona, Ontario, Riverside, Colton and San Bernardino, on the one hand, and Whitewater, Palm Springs, Indio, Coachella, Thermal and Mecca, on the other hand. Defendant asserts the right, under that decision and the 1941 amendment, to render local service between Los Angeles, Pomona and Ontario, including pickup and delivery service at points within three miles of the latter two communities such as, for example, Claremont, Chino, Cucamonga, La Verne, Spadra and Upland. Defendant conceded at the hearing that if it did not possess the right to serve between Los Angeles and Pomona or Ontario, it would likewise not have the right to serve the towns, mentioned above, for which Pomona or Ontario are used as basing points.

Although the operative rights and restrictions set forth in Decision 8965 are somewhat involved, a study of that decision reveals clearly what was intended to be accomplished by the Commission's order. In substance, the basic right granted to Boutell and Fuqua was for transportation of freight between Los Angeles, Pomona, Ontario, Riverside, Colton and San Bernardino, on the one hand, and Whitewater and points east to the Coachella Valley, on the other hand. The restriction therein against local business between Los Angeles and Ontario and points intermediate thereto was not affected by the further grant of authority, in the same decision, to pick up freight at Pomona and Ontario destined for points east of Riverside, Colton or San Bernardino, or to pick up freight from the Coachella Valley and points west to Beaumont, destined for Ontario or Pomona. Nor, by the same token, was the restriction against local business between Los Angeles and Riverside, San Bernardino, or Colton, and between Riverside or Colton and San Bernardino, affected by the additional grant authorizing the carrier to pick up freight in Riverside, Colton and San Bernardino destined for Beaumont and points east to the Coachella Valley and freight from the latter points westbound to Riverside, Colton or San Bernardino. Instead, the points of Pomona and Ontario, like those of Riverside, Colton and San Bernardino, were authorized by Decision 8965 only as points of service for traffic moving to or from points east of the three last named cities, including points in the Coachella Valley, and were not authorized as points of service for traffic moving to or from Los Angeles. We conclude, therefore, that Decision 8965 did not confer authority to render highway common carrier service between Los Angeles, on the one hand, and, on the other hand, Pomona, Ontario, Riverside, Colton or San Bernardino, or between Los Angeles and any point intermediate to the points just

named. None of the last-named points, therefore, is available to defendant, at least under Decision 8965, as an authorized service point for the purpose of linking up with other rights by virtue of the permission accorded by the 1941 amendment to Section 50-3/4 (c).

The other decisions upon which, together with the 1941 amendment, defendant relies for authority to render local service between Los Angeles, Pomona, Ontario, Riverside, Colton and San Bernardino are also subject to restrictions that prevent their being utilized by defendant for that purpose. For example, Decision 7064, which granted a right to Boutell and Fuqua between Los Angeles, Whitewater and points east, was restricted locally between Los Angeles, Banning and intermediate points. Decision 11174 merely authorized the transfer of an earlier right, created by Decision 6426, between Los Angeles, San Jacinto and Temecula,⁽⁵⁾ which was restricted against local service between Los Angeles and Riverside, including Riverside, and also against service at points intermediate between Riverside and Los Angeles. Decision 21934, also a transfer authorization, found that the transferor, Tibbetts, had a consolidated right between Los Angeles and San Jacinto and intermediate points via Riverside, Perris, Romoland and Hemet, including an extension to San Bernardino, with lateral rights within a radius of five miles of the main highway traveled.⁽⁶⁾ That right, however, was declared to be subject to the restrictions inhering in the original grants against local service between Los Angeles and Riverside and intermediate points, including Riverside, and between

(5) As pointed out in paragraph 11, Appendix "A", the right, under Decision 6426, to operate to Elsinore, Temecula and Murietta was later relinquished. (Dec. 10468, App. 7679.)

(6) The extension from San Jacinto to San Bernardino and the five-mile lateral right were granted to Tibbetts by Decision 21831, in Application 15688.

Riverside and San Bernardino and intermediate points. Manifestly, Tibbetts' vendee (Motor Service Express) and defendant (successor to Motor Service Express) acquired no greater rights than those held by Tibbetts himself.

Thus far, we have concluded that the only certificated rights held by defendant which authorize highway common carrier service, by direct routes, between Los Angeles, on the one hand, and San Bernardino, Colton and Riverside, on the other hand, are those created by Decisions 6966, 8403 and 11867.⁽⁷⁾ None of those certificates, however, authorizes service at intermediate points.

Defendant also relies on a certificate (Dec. 23722, App. 17002) which, in 1931, authorized Motor Service Express to extend its lines north and east of Los Angeles so as to serve San Pedro and adjacent harbor area cities. This right contains a restriction against local service between Los Angeles and the harbor cities as well as a prohibition against consolidation with the carrier's existing certificates north and east of Los Angeles; viz., those granted or transferred by Decisions 6966, 8403, 15952 and 21934. Although the prohibition against consolidation in Decision 23722 may have been nullified as a result of the rule announced by the Supreme Court in the Southern California Freight Lines case, supra, the restrictions against intermediate point service inhering in the separate certificates north and east of Los Angeles have not been abrogated. Hence, we conclude that Decision 23722 lends no support to defendant's claim of authority for intermediate point service between Los Angeles and San Bernardino, Colton, or Riverside.

(7) Decision 11867, in Application 8607, granted to Davis and Smith a certificate between Los Angeles and Riverside, Colton, Banning and Mecca, with interlocal service between Colton and certain points east thereof, via specified routes. This right was later acquired by Motor Service Express. (Dec. 15952, App. 12244.)

Defendant also maintains it is entitled to render direct service between Los Angeles, Fontana and Rialto. The latter two communities are located west of San Bernardino along main routes between Los Angeles and that city. The claim with respect to Rialto stems from the assertion of the right, under Section 50-3/4 (c), to link a certificate originally granted to one Baker, in 1926, by Decision 16315, in Application 11227, with the authorities conferred by Decisions 6966, 21934 and 23722, previously discussed. ⁽⁸⁾ Fontana is included, by virtue of the 1945 amendment to Section 50-3/4 (c), as unincorporated territory within three miles of the westerly and southerly city limits of Rialto.

The operative right granted to Baker by Decision 16315 authorized transportation of all commodities, in quantities not to exceed three tons from any one consignor to any one consignee, between Newport Beach and a number of Orange County communities; Corona, Arlington, Riverside, Highgrove, Colton, San Bernardino, Redlands, Highland, East Highlands and Rialto, subject to the restriction that no property could be transported between Riverside and points east or north thereof unless such property was destined to or originated at points west of Riverside. ⁽⁹⁾ The points from Highgrove to Rialto, inclusive, named above, as well as Fontana, are

(8) Decision 21934, as previously stated, authorized the transfer to Motor Service Express, subject to certain intermediate point service restrictions, of the Tibbetts consolidated right between Los Angeles, San Jacinto and intermediate points, via Riverside, Perris, Romoland and Hemet, including an extension to San Bernardino with lateral rights within five miles of the main highway traveled. Rialto is said to lie within this five-mile lateral zone.

(9) The route authorized by Decision 16315 was via the state highway from Newport through various Orange County towns to Riverside via Santa Ana Canyon; thence to Highgrove, Colton, Redlands, East Highlands, Highland, San Bernardino and Rialto, returning via Colton Avenue direct between San Bernardino and Colton, and returning by identically the same route. The right was also given to render free pickup and delivery service within one mile of the highways traversed.

either north or east of Riverside. Hence, it is clear that those points can be served, under Decision 16315, only when the traffic originates at, or is destined to, certificated points west of Riverside along the route between that city and Newport Beach. Since Rialto is not an authorized service point, under Decision 16315, except for traffic to or from points west of Riverside along the specified route, it is not available to defendant as a junction point, or as a point of service on a through route, in connection with other certificated routes from Los Angeles, such as those designated by Decision 6966 between Los Angeles and San Bernardino, or defined in Decision 21934, between Los Angeles, San Jacinto and San Bernardino, or as extended by Decision 23722 between Los Angeles Harbor cities and defendant's lines north and east of Los Angeles. Nor does Decision 27344, in Application 18480 (not cited by defendant), authorizing Southern California Freight Lines to use certain alternate routes (Foothill Boulevard, Valley Boulevard, or Santa Ana Canyon Road) when moving between San Bernardino or Riverside, on the one hand, and Los Angeles and Los Angeles Harbor, on the other hand, lend support to defendant's contentions, since the rerouting authorized by that decision was made subject to the following proviso:

" ... provided, that such rerouting only permits service at points for which applicant heretofore received proper authority to serve."

We conclude, at this point, on the basis of the foregoing discussion of defendant's operating certificates, that it does not possess authority to render local, direct highway common carrier service between Los Angeles, on the one hand, and, on the other hand, the following points: Pomona, Ontario, Claremont, Chino, Cucamonga, La Verne, Spadra, Upland, Guasti, Fontana, Rialto, Mira Loma, Pedley and Sparrland.⁽¹⁰⁾ Accordingly, any tariff publications by defendant

(10) Sparrland is located within one mile of Pedley, in Riverside County.

which became effective before, on, or since September 7, 1950 and which name rates or mileages indicating the holding out of local, direct highway common carrier service between Los Angeles and the points just mentioned, should be canceled.

There remain for consideration defendant's asserted claims with respect to highway common carrier or pickup and delivery service between Los Angeles and the following points: Sierra Madre, Montebello, Alhambra, Arcadia, Garvey, Monrovia, Rosemead, San Gabriel, Temple City, Wilmar and El Monte. All these points are located west of Ontario. Defendant's claims with respect to operative authority between Los Angeles and these points, except Sierra Madre, Montebello and possibly El Monte, as to which certificated rights are asserted, and San Gabriel and Wilmar, both of which are stated to lie within Los Angeles Territory (Item 270-A, Highway Carriers' Tariff No. 2), are based upon the 1945 amendment to Section 50-3/4 (c) (Public Utilities Code, Sec. 1063)⁽¹¹⁾. That amendment, quoted earlier, permits extension of pickup and delivery service by a highway common carrier, without certification, within such carrier's lawfully published pickup and delivery zones which do not exceed three miles from corporate city limits or three miles from the post office of any unincorporated point. Extensions of this character, however, are limited to additional pickup and delivery service provided in connection with authorized highway

(11) El Monte, San Gabriel and Wilmar are also included by defendant as service points from Los Angeles by virtue of the pickup and delivery extension provision of the 1945 amendment to Section 50-3/4 (c). In addition, defendant claims the right to serve El Monte in connection with a certificate asserted to confer authority between El Monte and certain points in the Coachella Valley. Defendant did not recall the decision granting such a right and we have been unable to find it.

common carrier operations. Thus, no additional local service may be performed within pickup and delivery zones as a result of their extension under the 1945 amendment. (East Bay Pickup and Delivery Limits, supra.)

In addition to the other cities, including Pomona, Ontario, the communities based on those points and Fontana and Rialto, for which defendant first published rates from Los Angeles, effective September 7, 1950, rates were also published for the first time to Garvey, Rosemead, Arcadia, Monrovia, Wilmar and Temple City. Prior to September 7, 1950, defendant did not hold itself out to render direct highway common carrier service between Los Angeles and those points.

Defendant's asserted right to serve between Los Angeles and Sierra Madre and certain intermediate points is based on a consolidation of separate operative rights originally held by Macy and Walsworth. The Macy right, originally based on prior operations, was between Los Angeles and Lamanda Park (now part of Pasadena), serving Highland Park, Garvenza, South Pasadena, Pasadena and Eagle Rock as intermediate points, via Pasadena Avenue, Avenue 64, Fair Oaks Avenue and Colorado Street. (Dec. 11407, App. 8303.) The Walsworth right (Dec. 13572, App. 9871) authorized through operations only, between Walsworth's terminals in Los Angeles and Sierra Madre, via Pico, San Pedro, Aliso, Los Angeles and Macy Streets, Mission Road and Foothill Boulevard. The consolidation effected an extension of the Macy right to Sierra Madre so as to permit service to that point from Los Angeles and the intermediate points previously served by Macy, and eliminated the through service given by Walsworth between Los Angeles and Sierra Madre. (Dec. 15798, App. 11926.)⁽¹²⁾

(12) Defendant acquired the Macy right in 1946. (Dec. 39413, App. 20674.)

Another result of the consolidation was that, with the elimination of through service between Los Angeles and Sierra Madre, the route over which that service was authorized to be conducted likewise disappeared, leaving available only the segment via Foothill Boulevard between Pasadena and Sierra Madre as an authorized route for the consolidated right beyond Pasadena. Hence, since no additional points of service were authorized by virtue of the consolidation, defendant is limited in extending its pickup and delivery limits, between Los Angeles and Sierra Madre, to zones not exceeding three miles from authorized points of service on the original Macy right which lie on the route specified in that right between, and including, Los Angeles and Pasadena, and to a zone extending not more than three miles from the city limits of Sierra Madre. To the extent that defendant has included in its tariffs pickup and delivery territory in excess of three miles from the limits of any incorporated city, or three miles from the post office of any unincorporated point, between Los Angeles and Pasadena, both points inclusive, or three miles from Sierra Madre, along the route heretofore mentioned between Los Angeles and Sierra Madre, such tariff publications should be canceled. There appears to be little question, however, but that defendant has the right to extend pickup and delivery service within three miles of the city limits or post offices, as the case may be, of Los Angeles, Highland Park, Garvanza, South Pasadena, Pasadena, Eagle Rock and Sierra Madre. ⁽¹³⁾

Although defendant claims Montebello as a basing point, under Decision 39413, for extension of pickup and delivery service, we find nothing in that decision, or in the operative rights therein authorized to be transferred, which lends support to such a claim.

(13) Highland Park, Garvanza and Eagle Rock, named as specific points of service in the Macy right, now appear to be included within the city limits of Los Angeles.

Accordingly, we conclude that defendant may not use Montebello as a basing point for extension of pickup and delivery service under the asserted authority of the 1945 amendment to Section 50-3/4 (c). According to defendant's Exhibit 2, which purports to state the sources of its operative authority pertinent to this case, Montebello is used as a basing point for extension of pickup and delivery service to Garvey, San Gabriel and Wilmar, although other authority is claimed, also, for the latter two points.⁽¹⁴⁾

Defendant has extended pickup and delivery service to Rosemead, Temple City and El Monte by using Rosemead Post Office, situated at the intersection of Rosemead and Valley Boulevards, as a basing point. Temple City is also stated to be within three miles of the intersection of La Press and Sunnyslope Drives, in Pasadena, an authorized point on the Los Angeles-Sierra Madre route. El Monte,⁽¹⁵⁾ it is claimed, is also a certificated point of service.

We find no authority, in the route certificates held by defendant, for inclusion of Rosemead as an authorized point of service which could be utilized as a basing point for extension of pickup and delivery service under the 1945 amendment to Section 50-3/4 (c). As for El Monte, that community is not named as an authorized point of service in any operating certificate held by defendant, so far as we can determine; moreover, it is an intermediate point on defendant's routes between Los Angeles and San Bernardino or Riverside as to which service from Los Angeles has been forbidden. An examination of defendant's tariff, included in this record by reference, shows that in June, 1921, under the purported authority of Decisions 8965 and 9047, defendant's predecessors Boutell and Fuqua published class rates, among others,

(14) See Appendix "B".

(15) See Footnote 11, supra.

between Los Angeles-El Monte and points Whitewater and east, and between Los Angeles-El Monte and Beaumont-Banning. (Supplements 2 and 3 to C.R.C. No. 1 of Coachella Valley Transportation Co. - Boutell and Fuqua, owners.) No mention is made, in either decision, of El Monte as an authorized point of service. The mere filing of class rates, absent authority to serve a point to or from which such rates are stated to apply, does not supply the lack of proper authority to serve such point. We conclude that defendant has not justified its claim of right to use El Monte as a basing point for extension of pickup and delivery service under the 1945 amendment to Section 50-3/4 (c).. Hence, defendant may not render pickup and delivery service in those portions of Arcadia which are within three miles of the intersection of El Monte Avenue and the northerly boundary of El Monte.

The remaining points of Alhambra and certain portions of Arcadia, as well as Monrovia, San Gabriel and Temple City, are asserted to lie within authorized pickup and delivery limits extending from South Pasadena (Alhambra and San Gabriel), Sierra Madre (Monrovia and portions of Arcadia), or Pasadena (Temple City). We perceive no cause for complaint with respect to such portions of those places as may be within three miles of the city limits of the basing points named.

In view of the disposition here made of the issues presented by the first and second causes of action set forth in the complaint, we deem it unnecessary to pass upon those raised by the remaining portions of that pleading.

O R D E R

A public hearing having been held, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Southern California Freight Lines, defendant herein, unless and until it has secured from this Commission a certificate of public convenience and necessity therefor, shall cease and desist and hereafter refrain from engaging in operations as a highway common carrier, as that term is defined in Section 213, Public Utilities Code, over any highway route not presently specified in its present certificates, or in service regulations appended thereto, between Los Angeles, on the one hand, and, on the other hand, the following points or places: El Monte, Montebello, Pomona, Ontario, Chino, Claremont, Cucamonga, Guasti, La Verne, Spadra, Upland, Rialto, Fontana, Mira Loma, Pedley and Sparrland.

(2) Southern California Freight Lines, defendant herein, is hereby directed to cease and desist and hereafter refrain from rendering pickup and delivery service, in connection with its presently authorized highway common carrier service, without first securing from this Commission proper authority therefor, within the following zones or places:

- a. Portions of Arcadia located within three miles of the intersection of El Monte Avenue and the northerly city limits of El Monte; also, unincorporated territory within three miles of the city limits of El Monte.
- b. Unincorporated territory within three miles of the city limits of Montebello, except such territory as lies within three miles of the intersection of Pine Avenue and Atlantic Boulevard in South Pasadena.

- c. Unincorporated territory within three miles of Rosemead Post Office, located at the intersection of Rosemead and Valley Boulevards, except such territory as lies within three miles of the intersection of La Press Drive and Sunnyslope Drive, in Pasadena.
- d. Unincorporated territory, including Fontana, within three miles of the city limits of Rialto, except in connection with operations pursuant to Decision 16315 along the route therein specified.

(3) Southern California Freight Lines, defendant herein, is hereby ordered and directed forthwith to cancel such original or revised pages in its tariff (Southern California Freight Lines Local, Joint and Proportional Freight Tariff No. 6, Cal. P.U.C. No. 6) which name rates or mileages applicable to highway common carrier service by defendant, via routes not presently authorized in its operative certificates, between Los Angeles and any of the points named in the preceding opinion for which certificated operating authority has been found lacking, to wit: El Monte, Montebello, Pomona, Ontario, Claremont, Chino, Cucamonga, La Verne, Spadra, Upland, Guasti, Rialto, Fontana, Mira Loma, Pedley and Sparrland. Defendant is also directed forthwith to cancel such portions of its said tariff which provide for highway common carrier or pickup and delivery service from or to Los Angeles within the zones or places specified in subparagraphs a to d, inclusive, of paragraph 2 above.

APPENDIX "A"

1. Between Los Angeles and San Bernardino - no local business between intermediate points.
(Fletcher & Tremble (1919) D.6966, A.4712.)
2. Between Los Angeles, Whitewater, Palm Springs, Indio, Coachella and Mecca - no local freight between Los Angeles and Banning and intermediate points.
(Boutell & Fuqua (1920) D.7064, A.5107.)
3. Between Los Angeles and Riverside and between Riverside and San Bernardino - no local service along said route between any other points.
(Fletcher & Tremble (1920) D.8403, A.5887.)
4. Between Los Angeles, Pomona, Ontario, Riverside, Colton and San Bernardino, on the one hand, and Whitewater, Palm Springs, Indio, Coachella, Thermal and Mecca, on the other, and also interlocally between Banning and Mecca. No local business between (a) Los Angeles and Ontario or points intermediate thereto; (b) between Los Angeles and Riverside, San Bernardino, or Colton; (c) between Riverside or Colton and San Bernardino, or between Colton and San Bernardino; except that freight may be picked up at Pomona and Ontario destined for Beaumont, Banning or points east in Coachella Valley, also in Coachella Valley, Beaumont and Banning for delivery at Ontario and Pomona; also, freight may be picked up in Riverside, Colton and San Bernardino destined for Beaumont, Banning or points in Coachella Valley, likewise in Coachella Valley, Beaumont and Banning destined to Riverside, Colton or San Bernardino.
(Boutell and Fuqua (1921) D.8965, A.6428.)
5. Through freight between Los Angeles, Beaumont and Banning via San Timoteo Canyon and local freight between Colton and Banning and intermediate points between Colton and Banning.
(Boutell & Fuqua (1921) D.9047, A.6428.)
6. From Los Angeles to Perris, Ethenac, San Jacinto and Hemet. (Wiegand (1922) D.11174, A.8353.) This right, originally created in 1919 (Smith & Wiegand, D.6426, A.4586), authorizes transportation of freight between Los Angeles, San Jacinto and Temecula, with no local shipments between Los Angeles and Riverside, including Riverside, "nor the receipt or delivery of any freight at points intermediate between the City of Riverside and the City of Los Angeles."

APPENDIX "A" (Contd)

7. Between Los Angeles and Riverside, Colton, Banning and Mecca, with interlocal service between Banning and Mecca, and between Colton and Banning via San Timoteo Canyon and between Riverside and Beaumont via San Moreno and Box Springs Grade. (Fletcher & Tremble et al - Transfer - Motor Service Express (1926) D.15952, A.12244.) Restricted against consolidation, enlargement or expansion of any operative rights beyond those theretofore held by Fletcher, Tremble, Davis or Smith, the transferors.
8. All commodities, in quantities not to exceed three tons from any one consignor to any one consignee, between Newport Beach, Costa Mesa, Santa Ana, Orange, Anaheim, Fullerton, Olive, Tustin, Placentia, Yorba Linda, Richfield, Yorba, Rincon, Corona, Arlington, Riverside, Highgrove, Colton, San Bernardino, Redlands, Highland, East Highland and Rialto; provided, "applicant may not transport any property between Riverside and points east or north thereof, unless such property is destined to or originates at points west of Riverside; ..." Further provided, "applicant may make free pickup and delivery within one mile of highways traversed," - over specified routes between Newport and Rialto. (Baker (1926) D.16315, A.11227.)
9. Pickup and delivery service between the east line of Ontario and Riverside and between Riverside and San Bernardino, and for three miles on either side of the roads traversed, except from or to any point in the City of Colton, as an extension and enlargement of applicant's present authorized service. (Service Motor Express (1926) D.17586, A.11820, as amended by D.17712, A.11820.)
10. Between San Jacinto and San Bernardino, serving Hemet, Romoland, Perris and intermediate points, and within a radius of five miles on either side of the state highway traversed. No local service between Riverside and San Bernardino and points intermediate between Riverside and San Bernardino. Certificate granted as extension of applicant's present authorized service between Los Angeles and San Jacinto. (Tibbetts (1929) D.21831, A.15688.)
11. Transfer of operative rights created or transferred by D.6426, A.4586; D.10468, A.7679 (right relinquished to operate to Elsinore, Temecula and Murietta); D.11174, A.8353; D.12643, A.9382; D.21831, A.15688. (Tibbetts - Transfer - Motor Service Express (1929) D.21934, A.16127.) A portion of the latter decision states: "P. E. Tibbetts has a consolidated right . . . between Los Angeles and San Jacinto and intermediate points via Riverside, Perris, Romoland and Hemet, including an extension to San Bernardino with lateral rights within a radius of five (5) miles of the main highway travelled:

APPENDIX "A" (Contd)

"Provided - That no service may be given locally between Los Angeles and Riverside and intermediate points including Riverside and further,

"Provided - That no service may be given locally between Riverside and San Bernardino and intermediate points."

12. Between, and as an extension of, presently operated lines north and east of Los Angeles, and San Pedro, East San Pedro, Wilmington, Terminal Island and Long Beach and intermediate points, restricted locally against service between the City of Los Angeles and the harbor cities mentioned. (Motor Service Express (1931) D.23722, A.17002.) The operative rights north and east of Los Angeles extended by D.23722 are those referred to in some of the decisions noted above; viz., D.6966, A.4712; D.8403, A.5887; D.15952, A.12244; D.21934, A.16127. Also incorporated in D.23722 is a specific restriction against "the merger, consolidation or unification of the several certificates, or any of them, as herein more specifically referred to, . . ."
13. Between Los Angeles Territory and San Francisco Territory. (Southern California Freight Lines (1949) D.43003, A.27232.) This decision, however, denied applicant's request, among others, to serve intermediate points between Los Angeles and San Bernardino or Riverside. A restriction in Decision No. 43003 against consolidation of the operative right therein granted to defendant with the carrier's existing rights was annulled by the Supreme Court of California. (Southern California Freight Lines v. Public Utilities Commission, 35 Cal. 2d 586.)

APPENDIX "B"

<u>Point</u>	<u>Decision No.</u>	<u>Other Authority</u>
Pomona, Ontario	6966, 7064, 8403, 8965, 11174, 21934, 23722	Transfer from predecessor and Sec. 1066, P.U. Code
Rialto	6966, 16315, 21934, 23722	Transfer from predecessor and Sec. 1066, P.U. Code
Sierra Madre and Montebello	11407, 15798, 39413	Transfer from predecessor
Alhambra		3 mi. from intersec. Pine St. and Atlantic Ave., So. Pasadena - Sec. 1063, P.U. Code
Arcadia		Portions within 3 mi. of easterly city limits of Sierra Madre and Orange Grove Ave. Balance within 3 mi. of intersec. El Monte Ave. and northerly boundary of El Monte - Sec. 1063, P.U. Code
Chino		Within 3 mi. of intersec. Benson Ave. and southerly boundary of Ontario - Sec. 1063, P.U. Code
Claremont		Within 3 mi. of any point on common boundaries of Claremont and Pomona - Sec. 1063, P.U. Code
Cucamonga		Unincorp. territory within 3 mi. of intersec. State Highway and Turner St. (Guasti), except portion of NW section which lies within 3 mi. of junction of northerly and easterly city limits of Ontario - Sec. 1063, P.U. Code
Fontana		Unincorp. territory within 3 mi. of westerly and southerly city limits of Rialto - Sec. 1063, P. U. Code
Garvey		Unincorp. territory within 3 mi. of intersec. San Gabriel Blvd. and northerly city limits of Montebello - Sec. 1063, P.U. Code
Guasti	17586, 17712	Transfer from predecessor, also Sec. 1066, P.U. Code
La Verne		Within 3 mi. of common boundaries of La Verne and Pomona - Sec. 1063, P. U. Code

APPENDIX "B" (Contd)

<u>Point</u>	<u>Decision No.</u>	<u>Other Authority</u>
Monrovia		Within 3 mi. of easterly boundary of Sierra Madre - Sec. 1063, P. U. Code
Rosemead		Unincorp. territory within 3 mi. of Post Office at intersec. Rosemead and Valley Blvds. - Sec. 1063, P. U. Code
San Gabriel		Within 3 mi. of intersec. Pine Ave. and Atlantic Blvd. in So. Pasadena; also within 3 mi. of northerly boundary of Montebello and within L. A. Territory - Sec. 1063, P. U. Code
Spadra		Unincorp. territory within 3 mi. of intersec. Union Pac. Ry. and westerly city limits of Pomona - Sec. 1063, P.U. Code
Temple City		Unincorp. territory within 3 mi. of intersec. La Press Dr. and Sunnyslope Dr., Pasadena; also within 3 mi. of Rosemead P.O. - Sec. 1063, P.U. Code
Upland		All points on and south of 18th St. within 3 mi of northern city boundary of Ontario - Sec. 1063, P.U. Code
Wilmar		Unincorp. territory within 3 mi. of northern boundary of Montebello; also within L. A. Territory
El Monte		Within 3 mi. of Rosemead P.O. - Sec. 1063, P.U. Code; also a decision (number unknown) claimed to authorize service between El Monte and Coachella Valley points.
Mira Loma and Pedley	17712	Transfer from predecessor

The Secretary is hereby directed to cause personal service of a certified copy of this order to be made upon Southern California Freight Lines, a corporation, in the manner provided by law.

The effective date of this order shall be twenty (20) days after service thereof upon defendant as herein provided.

Dated at San Francisco, California, this 8th day of January, 1952.

A. J. [Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Justus F. Graemer, being necessarily absent, did not participate in the disposition of this proceeding.