

Decision No. 46636

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PACIFIC SOUTHWEST RAILROAD ASSOCIATION,  
PACIFIC FREIGHT LINES, VALLEY EXPRESS  
CO. AND CALIFORNIA MOTOR EXPRESS, LTD.,

Complainants,

vs.

SOUTHERN CALIFORNIA FREIGHT LINES,  
FIRST DOE and SECOND DOE,

Defendants.

Case No. 4949

Commission investigation into the  
operations and practices of SOUTHERN  
CALIFORNIA FREIGHT LINES, a corporation.

Case No. 5142

H. J. Bischoff for respondent Southern California  
Freight Lines. Gordon, Knapp and Gill by Frederic A. Jacobus  
for Pacific Freight Lines, complainant in Case No. 4949.  
Boris H. Lakusta, Senior Counsel, Public Utilities Commission.

O P I N I O N

The above-entitled proceedings were heard on a joint record. Oral and documentary evidence having been adduced and briefs having been filed, the matters were submitted for decision.

At the outset it is to be noted that, although four complainants (Case No. 4949) charged Southern California Freight Lines, a corporation, and a highway common carrier as that term is defined by Section 213 of the Public Utilities Code, with extensive unauthorized and illegal operations in violation of Section 1063 of said Public Utilities Code (formerly Section 50-3/4 (c) of the Public Utilities Act), only one of said complainants, Pacific Freight Lines, entered an appearance in these proceedings, and said complainant did not present evidence in support of its allegations.

However, in Case No. 5142, which is an investigation on the Commission's own motion, the operations and practices of said Southern California Freight Lines between many of the same points and places named in Case No. 4949 were examined for the purpose of determining whether Southern California Freight Lines had operated or is operating in violation of the provisions of said Section 1063 of the Public Utilities Code.

More specifically, Case No. 5142 is an investigation of the operations of Southern California Freight Lines "over routes U. S. Highways Nos. 60, 66, 99 and 101, and State Highways Nos. 118 and 126, and between the following termini: Los Angeles, on the one hand, and Santa Barbara, Carpinteria, Ventura, Oxnard, Port Hueneme, Camarillo, Saticoy, Santa Paula, Fillmore, Newhall, Temple City, Arcadia, Monrovia, Duarte, Azusa, Glendora, San Dimas, La Verne, Claremont, Upland, Cucamonga, Fontana, Rialto, Ontario, Chino, Pomona, Puente, Covina, Baldwin Park, El Monte and Garvey, on the other; also, between Burbank, on the one hand, and Pomona, on the other"; or "anywhere within the State of California, including but not being confined to the routes and places set forth" in this paragraph.

The Commission's staff presented oral and documentary evidence of the operations of said respondent Southern California Freight Lines, which evidence consisted principally of exhibits  
(1)  
with explanatory comment .

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(1) See particularly Exhibits Nos. 2 and 3, being summaries of respondent's operations on October 9, 19 and 31, 1950, and Exhibit No. 4 which is a route map showing points served as per Exhibits Nos. 2 and 3. The particular days were chosen as being representative of respondent's daily business between the points in question. Respondent has not questioned that said days were representative of its daily business along the routes and between the points and places shown in said exhibits.

The trucking operations being examined may be divided or described as (a) those claimed by respondent to constitute contract carriage, and (b) those claimed to be conducted under certificated authority and/or by operation of law <sup>(2)</sup>.

Considering first applicant's so-called contractual operations or shipments, we find upon the evidence of record that during three representative days of October 9, 19 and 31, 1950, Southern California Freight Lines transported a total of 319 shipments, weighing from 10 to 7,584 pounds, between Los Angeles, on the one hand, and the following-named points situated easterly thereof: San Marino, Baldwin Park, Puente, Covina, San Dimas, Duarte, Azusa, Glendora, Etiwanda and Kaiser, on the other hand; and between Los Angeles, on the one hand, and the following-named points situated westerly and northwesterly thereof: Port Hueneme, Oxnard, Ventura, Carpinteria, Summerland, Montecito, Santa Barbara, Newhall, Saugus, Castaic, Fillmore, Santa Paula and Saticoy, on the other hand; that respondent used regular routes in transporting said shipments, to wit, U. S. Highways Nos. 60-66-99, and certain secondary roads, to points situated easterly of Los Angeles, and U. S. Highways Nos. 101, 99 and State Highway No. 126, and certain secondary roads, to points situated westerly and northwesterly of Los Angeles; that shipments were transported to or from all of the above-named points on at least one of said days, and to several of said points on all three of said days; that there were 121 different persons or companies who either shipped prepaid, received collect, or engaged respondent's services; that respondent held written contracts for its shipping service with only 27 of

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(2) By "operation of law" refers either to "grandfather rights" or the right of a highway common carrier to perform pick-up and delivery service three miles beyond certain authorized limits or points as provided by the 1945 amendment to Section 50-3/4 (c) of the Public Utilities Act (now Section 1063 of the Public Utilities Code), or the right to establish through routes and joint rates between all points served as provided by the 1941 amendment to said section.

said shippers or consignees, and an oral contract with one shipper; that, during the said three days, respondent transported shipments for 93 persons (shippers, consignees, and/or persons engaging respondent's services) with whom it did not have contracts, as follows:

<u>From</u>	<u>To</u>	<u>Number of Persons Served Without Contracts (3)</u>
Los Angeles	San Marino	2
"	Duarte	3
"	Azusa	4
"	Glendora	1
"	San Dimas	1
"	Etiwanda	1
"	Kaiser	1
"	Covina	7
"	Baldwin Park	3
"	Puente	2
"	Newhall	2
"	Saugus	1
"	Castaic	1
"	Fillmore	1
"	Santa Paula	4
"	Saticoy	1
"	Oxnard	14
"	Port Hueneme	2
"	Ventura	24
"	Carpinteria	1
"	Montecito	1
"	Santa Barbara	29
Vernon	Ventura	1

We also find that said transportation services were conducted regularly between the said termini and over regular routes; that Southern California Freight Lines does not possess highway common carrier authority to serve between Los Angeles, on the one hand, and San Marino, Duarte, Azusa, Glendora, San Dimas, Etiwanda, Kaiser, Covina, Baldwin Park, Puente, Newhall, Saugus, Castaic, Fillmore, Santa Paula, Saticoy, Oxnard, Port Hueneme, Ventura, Carpinteria, Montecito and Santa Barbara, on the other hand, nor between Vernon and Ventura.

Such operations show a clear intention on the part of respondent to make its service available to a considerable portion of the public with whom it did not have contractual

(3) In a few instances a person or company not having a contract with respondent engaged its service and some other person, also without a contract, would pay the transportation charges. This accounts for the total of this column being greater (107) than the difference between 121 and 28.

relations and, in our opinion, evince a dedication of its property to a public use. Therefore, upon the evidence of record, we find that respondent Southern California Freight Lines operated between the said points and over the said routes as a highway common carrier without proper authority, and in violation of Section 1063 of the Public Utilities Code.

We shall now consider respondent's highway common carrier operations between Los Angeles, on the one hand, and La Verne, Claremont, Upland, Fontana<sup>(4)</sup>, Ontario, Chino, Pomona, El Monte, Spadra and Rosemead, on the other hand; between Burbank, on the one hand, and Pomona, Chino and Claremont, on the other hand; between Glendale, on the one hand, and Pomona and Chino, on the other hand; between Vernon, on the one hand, and El Monte, Pomona and Ontario, on the other hand; between South Gate, on the one hand, and Ontario and Chino, on the other hand; between Culver City, on the one hand, and Ontario, Pomona, El Monte and Rosemead, on the other hand; and between Pasadena and Upland, South Pasadena and Upland, Alhambra and El Monte, Huntington Park and El Monte, El Segundo and Pomona, and Santa Monica and El Monte.

Respondent does not deny that it is now operating between the said points as a highway common carrier, but contends that it derives its operating authority to serve between said points pursuant to certificates of public convenience and necessity granted by decisions enumerated in Exhibits Nos. 1 and 9, or by a joining of rights as authorized by the 1941 amendment to Section 50-3/4 (c) of the Public Utilities Act, or by extension of the

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(4) Respondent's right to perform a pick-up and delivery service in Rialto is derived from the 1945 amendment to Section 50-3/4 (c) of the Public Utilities Act as being within three miles of San Bernardino, and not from any certificated authority between Los Angeles and Rialto. Therefore, respondent's claim that it has authority to serve Fontana from Los Angeles because Fontana is within three miles of Rialto is unfounded.

three-mile pick-up and delivery zone as authorized by the 1945 amendment to said Section 50-3/4 (c).

We have carefully reviewed said decisions and many others granted to respondent or its predecessors, and we are unable to find any certificated authority granted to applicant, or to any of its predecessors, which authorizes highway common carriage between the points and over the routes as hereinabove set forth, nor that applicant has acquired highway common carrier authority to serve between said places by reason of the said 1941 and 1945 amendments to Section 50-3/4 (c) of the Public Utilities Act. As said decisions are of record, it is not deemed necessary to repeat herein the grants, conditions and restrictions thereof <sup>(5)</sup>.

In conclusion, we find that respondent is operating as a highway common carrier without authority, in violation of Section 1063 of the Public Utilities Code (formerly Section 50-3/4 (c) of the Public Utilities Act), California Statutes 1915, Chapter 91, as amended, between the points and places and over the routes, as hereinabove set forth.

Respondent will be ordered to cease and desist such operations.

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(5) Decisions listed in Exhibit No. 1 are as follows: 12357, 14590, 15085, 16902, 17435, 20633, 24277, 26138, 26908, 27122, 27344, 27366, 32534, 27613, 28456, 28506, 28675, 29055, 39413, 29315, 31483, 35464, 35492, 38260, 42827, and 43003. Decisions listed in Exhibit No. 9, in addition to those listed in Exhibit No. 1, are 6966, 7064, 8403, 8965, 11174, 11407, 16315, 17586, 17712, 21934, 23722, 39413.

O R D E R

A public hearing having been held in the above-entitled proceedings, evidence having been received, the matter having been submitted and the Commission being fully advised in the premises,

IT IS ORDERED that Southern California Freight Lines, a corporation, and respondent herein, cease and desist from operating any auto truck, or other self-propelled vehicle for the transportation of property for compensation as a highway common carrier, as that term is defined in Section 1063 of the Public Utilities Code, over the public highways of the State of California, between fixed termini, as follows:

between Los Angeles, on the one hand, and San Marino, Duarte, Azusa, Glendora, San Dimas, Etiwanda, Kaiser, Covina, Baldwin Park, Puente, Newhall, Seugus, Castaic, Fillmore, Santa Paula, Saticoy, Oxnard, Port Hueneme, Ventura, Carpinteria, Montecito and Santa Barbara, on the other hand;  
also between Vernon and Ventura;  
also between Los Angeles, on the one hand, and La Verne, Claremont, Upland, Fontana, Ontario, Chino, Pomona, El Monte, Spadra and Rosemead, on the other hand;  
also between Burbank, on the one hand, and Pomona, Chino and Claremont, on the other hand;  
also between Glendale, on the one hand, and Pomona and Chino, on the other hand;  
also between Vernon, on the one hand, and El Monte, Pomona and Ontario, on the other hand;  
also between South Gate, on the one hand, and Ontario and Chino, on the other hand;  
also between Culver City, on the one hand, and Ontario, Pomona, El Monte and Rosemead, on the other hand; and  
also between Pasadena and Upland, South Pasadena and Upland, Alhambra and El Monte, Huntington Park and El Monte, El Segundo and Pomona, and Santa Monica and El Monte;

unless and until it shall have obtained from the Public Utilities Commission a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED that Southern California Freight Lines, within ten days after the effective date of this order, cancel all tariff provisions naming rates or mileages to, from or between points or places which it is ordered herein to cease and desist from serving.

IT IS FURTHER ORDERED that the Secretary of the Commission cause service of this Order to be made upon the respondent, Southern California Freight Lines.

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

Dated at San Francisco, California, this 8<sup>th</sup> day of January, 1952.

A. J. Anderson  
President  
Harold A. Kula  
Francis H. Pottel  
John E. Mitchell

Commissioners

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