

ORIGINALDecision No. 47812

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 AZUSA TRANSFER COMPANY, a corporation,)
 for a certificate of public convenience) Application No. 33050
 and necessity to operate as a highway)
 common carrier for the transportation)
 of property.)

Donald Murchison, for applicant.
Gordon, Knapp and Gill, by W. H. Biscailuz, for
 Pacific Freight Lines and Pacific Freight Lines
 Express; Robert W. Walker and Henry Moffat, by
Henry Moffat, for Santa Fe Transportation Company
 and The Atchison, Topeka and Santa Fe Railway
 Company; J. B. Robinson and H. P. Merry, for
 Southern California Freight Lines and Southern
 California Freight Forwarders, protestants.
Paul Parish, for Public Freight System, interested
 party.

O P I N I O N

Applicant, a California corporation, seeks authority as a
 highway common carrier to carry general commodities, except:

- (a) Bank bills, currency or coin, deeds, drafts or
 valuable papers with such (sic) stamps affixed,
 precious metals or stones or articles manufactured
 therefrom, jewelry or other articles of extra-
 ordinary value, also household goods (used) as
 described in current Western Classifications;
- (b) Acids;
- (c) Animals or pets;
- (d) Any article which would be liable to damage other
 shipments or equipment;
- (e) Explosives or dangerous substances;
- (f) Petroleum products in bulk;

to, from, and between the points and places as follows: Azusa,
 California, and all points and places within a radius of five (5)
 miles thereof, and Alhambra, Arcadia, Baldwin Park, Bell, Downey,

East Long Beach, El Monte, Huntington Park, Kaiser Steel Mill at Kaiser, La Habra, Long Beach, Los Angeles Drayage Zone, Lynwood, Maywood, Monrovia, North Long Beach, Palos Verdes, Pasadena, Puente, San Dimas, San Gabriel, San Pedro, South Gate, Terminal Island, Torrance, Vernon, Watson, Whittier, and Wilmington, subject to the restriction that applicant shall not transport any shipment weighing less than 4,000 pounds, nor any shipment which shall carry a charge lower than that applicable to a shipment of not less than 4,000 pounds. Service will be "on call", including Saturdays, Sundays and holidays. The rates to be charged for the services will be the minimum charges set forth in Highway Carriers' Tariff No. 2.

(1)

In performing the services, applicant proposes to use all available public highways between the points and within the cities proposed to be served.

Public hearings were held in Los Angeles and Azusa, evidence was presented, and the matter was orally argued and submitted.

Mr. A. L. Meier formed the Azusa Transfer Company in 1911 as a general for-hire trucking company serving Azusa and the San Gabriel Valley. The record does not indicate that any of his services were between fixed termini or over regular routes. Robert H. Bensinger became a partner with A. L. Meier in 1945. In 1946 the present corporation was formed, and it secured city carrier, contract carrier, and radial highway common carrier permits. It also has interstate rights. Services have expanded so that applicant now serves much of Southern California, including an area not involved in the instant application. Since the formation of the corporation

(1) From the evidence it is obvious that applicant intends to carry any size of shipment, provided it receives for its services at least the charge applicable to a shipment of 4,000 pounds.

in 1946, the commodities carried and the territory served have remained substantially the same (services for Lucky Lager began in 1949). The number of pieces of equipment used in its entire services has increased from seven trucks and seven trailers in 1947 to 111 pieces of equipment in 1952, including 32 power units, seven of which are equipped with two-way radios by which radio communication can be maintained between the office and such units and between such units. The radio communication system was placed in service in March 1952, and is used exclusively in the proposed service area. The trailers are 22 feet in length and the semitrailers are 32 feet in length, and all equipment has removable sides and canvas covers.

The present terminal is located in Azusa.⁽³⁾ If applicant receives a certificate, it will have an additional terminal in Los Angeles which can be used as a dock. In performing its services, lading is not moved over a dock but goes from origin to destination on the same piece of equipment. Shipments picked up prior to 1:30 p.m. are delivered the same day. Shipments picked up after 1:30 p.m. are delivered the next morning. Same-day services are given on rush shipments regardless of time of pickup. This same service is to be continued if applicant is granted a certificate.

Applicant claims two contracts, an oral agreement with Lucky Lager Brewing Company in Azusa for shipments between Azusa and places in the proposed service area, and a written agreement with Sears Roebuck and Company for the delivery of fertilizer from an Azusa factory to Sears stores in the area. (Applicant's president testified that the contract is with Sears, but no representative of Sears testified, although a commercial fertilizer company in Azusa was represented.) The terms of these agreements were not stated at

(2) Exhibit No. 3.

(3) Exhibit No. 10.

the hearings, except that applicant's president testified that the Lucky Lager agreement is cancelable at will, and a representative of the brewing company testified that all its truck shipments are carried by applicant. Applicant's president further testified that the Sears Roebuck agreement is cancelable on short notice. Applicant will haul the commodities carried pursuant to the said agreements for any shipper offering the traffic. Fertilizer has been carried for others than Sears Roebuck and Company. The shipments of these two commodities, beer and fertilizer, will be referred to subsequently. ✓

On March 31, 1952, applicant had current assets of \$89,291.40, and current liabilities of \$42,812.58.⁽⁴⁾ During the first three months of 1952 applicant made a net profit of \$13,110.99.⁽⁵⁾ Its gross revenues from all operations increased from \$69,845.10 in 1944 to \$514,477.13 in 1951.⁽⁶⁾

As heretofore stated, applicant has city carrier, highway contract carrier and radial highway common carrier permits issued by this Commission. The only services purportedly rendered under the highway contract carrier's permit are those for Lucky Lager Brewing Company and the shipments of fertilizer from Azusa to various Sears stores in the proposed service area. All other intrastate shipments are said to be pursuant to the radial highway common carrier's and city carrier's permits. Applicant has on occasion refused to carry shipments because of claimed lack of authority. ✓

Applicant placed in evidence an exhibit⁽⁷⁾ showing all shipments handled by applicant between points in the proposed service area in the first and last ten days of each month from June 1951 to

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- (4) Exhibit No. 11.
 - (5) Exhibit No. 12.
 - (6) Exhibit No. 13.
 - (7) Exhibit No. 14.

March 1952, both months included. One hundred fifty-nine days are included in the check period. Service was rendered on 12 Saturdays, five Sundays, and on Washington's Birthday, included in the 159 days of the check period. (8)

During the 159 days represented by Exhibit No. 14, only nine pairs of termini were served ten days or more, according to the dates of the master freight bills. The termini served, the commodities carried, the number of days served, and the number of shipments carried are set out in Appendix A to this decision. The total weight carried was 68,723,268 pounds. (9)

From the data contained in Appendix A hereto, it can be seen that the principal movement by applicant is pursuant to its alleged oral contract with Lucky Lager Brewing Company in the movement of beer, empty bottles, and pallets (all such shipments reflected in the appendix are for Lucky Lager), between Azusa and Long Beach, Azusa and Los Angeles, and Azusa and Vernon. Services for this company between the three named pairs of termini amounted to approximately 72 per cent of applicant's tonnage during the check period. There is nothing in the record to indicate that any brewery other than Lucky Lager is in the proposed service area or desires that applicant's services be available.

(8) Exhibit No. 14 shows approximately 66 commodities carried in shipments ranging from 4,000 pounds, the minimum weight carried and proposed to be carried, to 880,000 pounds, a movement of an entire factory. When shipments are in excess of a single truckload, a shipping bill is made for each truckload and grouped under one master shipping bill showing the entire shipment, the actual movement of which may have taken place over a period of several days with numerous truckloads each day. For example, see Exhibits Nos. 15 through 23 and Exhibit No. 26. Exhibit No. 18 reflects an 848,000-pound shipment of steel from Kaiser to Azusa under a master bill dated October 23, 1951. (See Exhibit No. 14, Page 17, Shipment No. 32270, on October 23, 1951.) In transporting this shipment, 17 truckloads were carried on October 23, two on October 24, and one on October 28.

(9) Exhibit No. 30.

Steel, steel mill rollers, steel plates, metal fittings and steel rails were carried between 16 pairs of termini, the principal movements being between Kaiser and Azusa (35 shipments) and Los Angeles and Azusa (54 shipments). The steel traffic amounted to approximately 18 per cent of the tonnage carried by applicant during the check period.

Pipe and fittings amounted to approximately 4.8 per cent of applicant's total tonnage. Twenty-seven of the 53 pairs of termini shown in Appendix A were served, with the greater part of the pipe traffic being between Azusa and Rosemead (18 shipments of pipe and fittings in 11 days).

Petroleum and petroleum products (in containers) constituted approximately one per cent of the total weight of all shipments carried in the check period. Thirteen such shipments were from Los Angeles to Covina and eight were from Los Angeles to Azusa.

Fertilizer, the item carried by applicant for Sears pursuant to an alleged written contract (fertilizer is carried for others than Sears and such other shipments are included in the total), constituted less than one-half of one per cent of applicant's tonnage during the check period. Shipments were moved from Azusa to Altadena, from Azusa to Long Beach, from Azusa to Los Angeles, and from Azusa to Pasadena.

The items listed above constituted approximately 96 per cent of applicant's traffic during the check period reflected in Exhibit No. 14. The remaining four per cent consisted of the items shown in the miscellaneous column on Appendix A, exclusive of fertilizer. There were approximately 55 of such shipments carried between 16 pairs of termini.

Twenty-one public witnesses testified at the request of the applicant. Of these 21 witnesses, 18 use the services of the applicant at the present time.

Nine of the shippers ship or receive iron and steel articles, iron and steel, structural, fabricated and unfabricated (excluding iron or steel pipe and fittings), as described in Item No. 340 Series City Carriers' Tariff No. 4, Highway Carriers' Tariff No. 5, Appendix A of Decision No. 32504, as amended, in Case No. 4121. These witnesses have been using the services of applicant for periods ranging from six months to six years, and desire transportation of the stated articles collectively from Alhambra, Long Beach, Los Angeles, Maywood, Vernon, Kaiser Steel Plant, Huntington Park, Torrance, Azusa, Pasadena and Baldwin Park, on the one hand, to all points in the proposed service area. Appendix A attached hereto shows that, with the exception of the movements between Kaiser and Alhambra, Kaiser and Azusa, and Los Angeles and Azusa, the movement of such articles is very sporadic.

Four of the witnesses ship pipe and fittings - steel, iron and concrete. Shipments originate in North Long Beach, Arcadia, Azusa, Kaiser, Maywood, South Gate, Los Angeles, San Pedro, El Monte, San Gabriel, Baldwin Park and Long Beach, and are delivered to all points in the service area. The shippers have been using the services of applicant for periods ranging from five years to 20 years. Appendix A attached to this decision shows that there is no regular movement of pipe and fittings between any two places in the service area proposed.

A construction equipment buyer and seller in Azusa deals in heavy equipment. The greater number of his shipments are over 4,000 pounds in weight. He has a railroad spur in his yard, uses Pacific Freight Lines and Santa Fe Transportation Company for small

shipments, and applicant, Hunt, and Haddock (noncertificated) for heavy truck shipments. Shipments are made to any place in the proposed service area when required. Hunt or Haddock is used when there are heavy shipments involving the need for low-bed equipment, which applicant does not have. From Appendix A it appears that, during the 159 days checked, not over two or three shipments were given to applicant by this witness who has been using applicant since 1947.

Romac Oil Company of Covina is a jobber of Union Oil Company products. These products are shipped from Covina to numerous places in applicant's proposed service area, and mostly go in bulk in tank trucks. Less-than-tank-truck quantities are handled by applicant. Only 25 shipments of petroleum products were carried by applicant during the check period between six pairs of termini, with 13 shipments being made between Los Angeles and Covina.

A representative of Wynoil Laboratories in Azusa testified that this company receives about six 4,000-pound shipments of empty tin cans per month from Los Angeles, and that the company has been using applicant exclusively for about two years. One shipment of empty cans, weighing 14,500 pounds, is shown on Exhibit No. 14.

The Growers Chemical Supply Company uses applicant to carry commercial fertilizer from Azusa to Los Angeles, Long Beach, Pasadena and Compton, and to carry steel from Los Angeles and Kaiser to Azusa. It has used applicant for five years and uses no other carrier in the area. Appendix A shows only seven shipments of fertilizer during the check period. Shipments from Azusa to Sears stores are pursuant to an alleged written contract.

Lucky Lager Brewing Company provides about 72 per cent of applicant's total tonnage. It ships beer from Azusa to Long Beach, Los Angeles, and Vernon, and ships empty bottles and pallets from

those cities to Azusa. The parties have an oral agreement which has been in effect about three years. No other carrier is used and no change in carriers would be made whether the certificate is granted or refused.

Collectively, the shippers using applicant's services preferred the services of the applicant to those of other carriers in the field, and desired that applicant's services continue to be available to them. Several of the witnesses ship or receive commodities requiring special handling such as fertilizer in paper sacks, steel pipe in lengths up to 60 feet, cement-lined or tar-covered pipe, and steel in coils. The witnesses testified that the highway common carriers could not or would not handle these fragile or over-size shipments. Others desire the same-day services proposed by the applicant.

Three shippers who have not used applicant's services appeared in support of the application.

Givens Machinery Company of Los Angeles buys and sells new and used heavy machinery, and ships as needed to all points in the proposed service area, averaging two shipments per week outbound to the proposed service area, and two shipments per month inbound. It uses three permitted carriers and four certificated carriers at present, but has not used the services of the applicant. This company supported the application because the witness knows one of the applicant's officials.

The Capps Machinery Company in Vernon ships heavy machine tools to all places in the proposed service area. There is no regular movement to any point. The machinery requires expert handling, and the company has employed the services of Pearson Trucking Company. One of applicant's employees was formerly with Pearson. Capps would

use the services of applicant, together with those of Pearson, because applicant's said employee is an expert at handling heavy machinery.

The Butt Lumber Company of Azusa does a retail and wholesale lumber, electric fixture, hardware, and building supply business. All outgoing shipments are via the lumber company's trucks, but shipments via highway common carrier come in from many places in the proposed service area. The company wants same-day service or delivery the morning following the day of order. Pacific Freight Lines is the only highway common carrier which has been used.

Disregarding the railroads and freight forwarders, there are four highway common carriers with authority to serve all or a majority of the territory sought to be served by the applicant. These carriers are Pacific Freight Lines, Southern California Freight Lines, Santa Fe Transportation Company and Pacific Motor Trucking Company. Pacific Motor Trucking Company and Santa Fe Transportation Company secured authority to serve the area involved within the past (10) three years. Santa Fe Transportation Company is authorized to carry less-than-carload traffic only. Southern California Freight Lines serves a major part of the area except that between Pasadena and Fontana via Highway No. 66. The protestants use shorter rigs than applicant's 35-foot semitrailers and closed vans except when larger sizes are requested. These closed vans, according to some shippers, make loading and unloading difficult and damage to long items more likely.

Applicant introduced evidence relative to the growth of (11) the communities involved, and the increase in the number of industries .

(10) For P.M.T. authority see Decision No. 46872, dated March 17, 1952, on Application No. 32183. For Santa Fe Transportation Co. authority see Decision No. 43355, dated October 4, 1949, on Application No. 27203.

(11) Exhibit No. 24.

(12)

in four of the communities. The businesses of most of the shippers appearing for applicant had increased in the two years preceding the hearings. While the increases in the population figures are helpful in determining increased transportation demands, the original and present sizes of the businesses were not given by the witnesses. On this record, such statements are of little value, particularly in view of the fact that there have been two new carriers added during that period, and very little use has been made of such services.

The only regular movement reflected by the evidence is the movement of beer from Azusa to Vernon, Long Beach and Los Angeles, and the movement of empty bottles and pallets from Long Beach, Los Angeles and Vernon to Azusa (Appendix A). While these movements are regular and substantial, they are not now for the general public as they are moved pursuant to applicant's contract carrier's permit. If applicant is to secure a certificate of public convenience and necessity authorizing it to carry such goods, it must affirmatively show that public convenience and necessity require that it have such authority (Section 1063, Public Utilities Code). There is nothing in the record to indicate that public convenience and necessity require that applicant be authorized to carry beer, bottles, and pallets, as there is no showing that there are other brewers in the area, other than Lucky Lager, who desire or need the applicant's services.

The record shows that all other services performed and to be performed, including the shipments of steel between Kaiser and Azusa and between Los Angeles and Azusa, are irregular and as the need arises. These shipments are not now, nor is it contemplated that they will be, usually or ordinarily between fixed termini or over regular routes.

(12) Exhibit No. 25.

As there is no showing that public convenience and necessity require that applicant be given authority to transport beer, empty bottles, and pallets, and, further, since there is no showing that the services proposed, other than those mentioned above, are to be between fixed termini or over regular routes, the application will be denied.

O R D E R

Application having been filed, public hearings having been held thereon, and the Commission having found that public convenience and necessity do not require that applicant be given a certificate of public convenience and necessity as requested in the application,

IT IS ORDERED that the application be, and the same hereby is, denied.

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

Dated at San Francisco, California, this 14th day of October, 1952.

A. J. Dunderman
President

Justin F. Cullen

Harold K. Kula

Harrold L. Pittel

John E. Mitchell
Commissioners

APPENDIX A

A-33050 AM

ORIGIN	DESTINATION	NUMBER OF DAYS SERVED	NUMBER OF SHIPMENTS		PIPE AND FITTINGS	PETROLEUM AND PETROLEUM PRODUCTS	STEEL	MISCELLANEOUS
			BEER	PALLETS, EMPTY BOTTLES, SKIDS, EMPTY BOTTLES AND PALLETS				
Azusa	Altadena	1						1 (fertilizer)
"	Arcaçia	1			1			
"	Baldwin Park	3			3			
"	Buena Park	3			10			
"	Covina	4			6			
"	Dominguez	3			6			
"	Duarte	8			15			1 (pipe tar & paper)
"	El Monte	9			13			
"	Fontana	2			1		1	
"	Long Beach	80	106		8			4 (fertilizer)
"	Los Angeles	117	333	5	17	1	7	16 (fertilizer, mill machinery, degasser tanks)
"	Maywood	1					1	
"	Monrovia	1			1			
"	Montebello	2			2			
"	Palos Verdes	1			2			
"	Pasadena	4			1			3 (fertilizer, engine parts)
"	Rosemead	11			18			
"	San Gabriel	1			1			
"	South Gate	1						1 (jute waste)
"	Temple City	1			1			
"	Torrance	1						
"	Vernon	85	289				1	
"	Watson	2			5			
"	Whittier	5			4		1	
"	Wilmington	3	3		2			
Baldwin Park	Alhambra	1					1	
"	Bell	1						
"	Los Angeles	3			1			
Covina	Glendora	1					3	
"	Los Angeles	6			1			
El Monte	Bassett	1				1		6 (iron barrels, iron)
"	Los Angeles	2			1			
Kaiser	Alhambra	9				1		1 (iron drums)
"	Azusa	32					14	
							35	

APPENDIX A

A-33050 AM

ORIGIN	DESTINATION	NUMBER OF DAYS SERVED	NUMBER OF SHIPMENTS		PIPE AND FITTINGS	PETROLEUM AND PETROLEUM PRODUCTS	STEEL	MISCELLANEOUS
			BEER	PALLETS, EMPTY BOTTLES, SKIDS, EMPTY BOTTLES AND PALLETS				
Kaiser	Los Angeles	4					4	
"	Monrovia	4					6	
Hollydale	Azusa	1					1	
Huntington Park	Los Angeles	1					2	
Long Beach	Azusa	27		34	1		2	3 (wood poles, synthetic resin)
" "	Baldwin Park	1			1			
Long Angeles	Azusa	112		253	7	8	54	10 (service station, power cans, electrodes, welding compound, mill machinery & lathe, empty cans, gaskets)
" "	Baldwin Park	2					1	1 (carbide)
" "	Covina	12			1	13	3	
" "	El Monte	1				1		
Monrovia	Pasadena	1					1	
Paramount	Azusa	1						1 (tanks)
Pasadena	Fontana	1					1	
"	Los Angeles	1						1 (misc. equipment)
Torrance	Azusa	7						7 (diatomaceous earth)
Vernon	Azusa	82		220				1 (beer cans)
Whittier	Covina	4						6 (cable, telephone wire, phone equipment)
"	Los Angeles	2		3				3 (reel lugs, empty wire spools)
Wilmington	Azusa	3						3 (bone meal, filter earth)