

ORIGINALDecision No. 43042

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PUBLIC FREIGHT SYSTEM, a California)
 corporation, for (a) Certificate of)
 Public Convenience and Necessity to)
 operate as a highway common carrier)
 of commodities generally between the)
 Los Angeles territory as defined in)
 existing certificates of applicant)
 on the one hand and Fontana, Cali-)
 fornia, on the other hand, serving)
 intermediate and off-route points,)
 and (b) for removal of restriction)
 against the transportation of local)
 traffic in connection with presently)
 authorized service.)

Application No. 32187

Glanz & Russell, by Theodore W. Russell, for applicant. E. L. H. Bissinger for Pacific Electric Railway Company, Southern Pacific Company, and Pacific Motor Trucking Company, protestants. Gordon, Knapp & Gill, by Hugh Gordon and Sanford A. Waugh, for Pacific Freight Lines, Pacific Freight Lines Express, The Atchison, Topeka & Santa Fe Railway and Santa Fe Transportation Company, protestants. Henry J. Bischoff, John B. Robinson and H. P. Merry for Southern California Freight Lines and Southern California Freight Forwarders, protestants. Charles M. Heath for Kaiser Steel Company, interested party.

O P I N I O N

Applicant, Public Freight System, a California corporation, now operates as a highway common carrier between Los Angeles and Los Angeles Harbor; ⁽¹⁾ and between the Los Angeles metropolitan

(1) See Hodge Transportation System vs. Ashton Truck Company (California Truck Co.), 24 C.R.C. 116, Decision No. 12823, Case No. 1871, 1923; Decision No. 38162; Decision No. 39188.

area, as hereinafter defined, and Fontana, serving the intermediate points at El Monte, Pomona and Ontario, carrying only traffic moving to and from points north of Los Angeles by highway common carrier. (2)

It also has a highway contract carrier permit, a city carrier permit, and a radial highway common carrier permit, and, in addition, it holds Interstate Commerce Commission rights covering generally the territory embraced in the instant application.

In this proceeding it seeks authority to establish service as a highway common carrier for the transportation of commodities generally except:

1. Household or personal effects commonly used in a household, such as clothing, furniture, furnishings, radios, musical instruments, stoves and refrigerators when transported uncrated and unpacked in connection with so-called household movement;
2. Fixtures and equipment such as furniture, furnishings and other appurtenances commonly used in a store, office, museum, institution, hospital or other establishment when transported uncrated and unpacked, and any household goods, fixtures, and equipment when not intended for resale and when transported uncrated and unpacked;
3. Motion picture films, motion picture advertising matter, motion picture theatre accessories and electrical fixtures, bulbs and globes, motion picture production machinery and parts and tickets, when transported to theatres or other similar places of amusement, or in the return direction from such establishments;
4. Petroleum and petroleum products in tank trucks;
5. Livestock.

(2) Decision No. 43305, dated September 20, 1949, and Decision No. 45247, dated January 9, 1951, both on Application No. 29726.

Service is proposed to be rendered as follows:

- a. Between all points and places in the Los Angeles metropolitan area, (3) on the one hand, and Fontana, on the other hand, via designated highways;
- b. Between all points and places in the Los Angeles metropolitan area, on the one hand, and, on the other hand, all points intermediate between said area and Fontana, and within a radius of three miles on either side of the highways designated, and within three miles of either side of applicant's presently authorized route as described in Decision No. 45247 and the off-route points of Chino and the California Institution for Men, via California State Highway No. 71; also between all intermediate and off-route points along presently authorized routes and along the routes proposed.

In addition, applicant requests the removal of the restriction contained in said Decision No. 45247 which limits the applicant to the transportation of property which has had a prior movement by a highway common carrier or will have a subsequent movement by a highway common carrier to or from some point north of Los Angeles.

Service is to be provided five days per week, Monday through Friday, and will be given on Saturdays when prior arrangements have been made between applicant and the shipper. Traffic moving from points in the proposed service area east of the Los Angeles metropolitan area to the Los Angeles metropolitan area and traffic moving between any two points, both of which lie in the proposed service area east of the Los Angeles metropolitan area, will be handled on an overnight basis. Larger shipments between points in the area east of the Los Angeles metropolitan area will be delivered on the day of pickup. Traffic picked up in the Los Angeles metropolitan area, and destined for the

(3) The Los Angeles metropolitan area is described in the order herein.

proposed service area east thereof, is to be given delivery on two schedules regardless of the size of the shipment, that traffic picked up in the metropolitan area prior to 10:00 a.m. will be delivered on the afternoon of the same day in the eastern territory, and that picked up after 10:00 a.m. will be delivered the morning following the pickup. No service is proposed between any two points both of which lie within the Los Angeles metropolitan area.

The rates to be charged for the proposed services will be those set forth in Local, Joint and Proportional Freight Tariff No. 18-A, California Public Utilities No. 10, of Agent J. L. Beeler.

Public hearings were held before Examiner Rogers, briefs were filed, and the matter was submitted.

The applicant herein filed a similar application on September 23, 1948 (Application No. 29726). On September 20, 1949, the application was denied (Decision No. 43308). A rehearing was granted and on January 9, 1951, applicant was given authority to transport general commodities, with exceptions, between the Los Angeles metropolitan area, on the one hand, and Fontana, and the intermediate points of El Monte, Pomona and Ontario, on the other hand, subject to the restriction that all property carried shall have a prior or subsequent movement by highway common carrier from or to some point north of Los Angeles. ⁽⁴⁾ Applicant was subsequently authorized to establish joint through rates with other highway common carriers between the points it is authorized to serve and points north of Los Angeles. ⁽⁵⁾

(4) Decision No. 45247, dated January 9, 1951.

(5) Decision No. 46247, dated November 20, 1951, on Application No. 32408, as amended by Decision No. 46504.

Except for the identity and number of the public witnesses who testified on behalf of the applicant in the present matter, and the identity and number of the witnesses who testified on behalf of the applicant on Application No. 29726, supra, little new matter was presented in the instant application, with the exceptions that the applicant now proposes a twice-daily service instead of the once-daily service outbound from the Los Angeles metropolitan area to the proposed service area east thereof, and the growth of the area east of Los Angeles since 1948 was shown.

J. Nelson Kagarise is the president and general manager of the applicant, Public Freight System. In 1933 he organized the Keystone Express Company, an express corporation, and operated it until 1940, at which time he changed the name to Public Freight Service. In 1946 he organized the Public Freight System and the highway common carrier operating rights of Public Freight Service were transferred to Public Freight System, the applicant herein. Public Freight Service continued to operate as an express corporation and as a freight forwarder. Both companies are stock corporations. Applicant's stock is owned by four individuals, including J. Nelson Kagarise. The stock of Public Freight Service is owned entirely by Public Freight System. Public Freight System holds and operates all the highway common carrier certificates and the permits. Public Freight Service, the wholly owned subsidiary, handles the accounting work for Public Freight System.

As of April 30, 1951, applicant had current assets of \$24,801.26, compared with current liabilities of \$19,953.52,

and had \$179,753.70 worth of revenue equipment on which it owed
\$76,760.03.⁽⁶⁾ The applicant also has the capital stock of
Public Freight Service valued at \$3,600. Public Freight Service
had, on the same date, current assets of \$28,299.06, compared
with current liabilities of \$26,642.40.⁽⁷⁾ As of April 30, 1951,
Public Freight Service owed to Public Freight System, as the
underlying carrier for Public Freight Service, \$13,061.30, re-
flected under "accounts receivable - affiliated companies" on
Exhibit No. 10 and under "accounts payable - affiliated companies"
on Exhibit No. 11.

A week typical of applicant's operation is reflected
by Exhibit No. 3. During the week of May 1 to May 7, 1951,
8.51% of its revenue came from its highway common carrier
operations, 3.68% came from its radial highway common carrier
operations, 24.01% came from its contract carrier operations, and
62.57% came from its interstate operations. The remaining .23%
was from other operating revenue listed as demurrage. (Note: the
1% error in the total is in the exhibit).

At the time applicant was incorporated it had 18 pieces
of equipment.⁽⁸⁾ This amount of equipment has increased
annually to the total of 84 pieces of equipment owned by appli-
cant at the present time.⁽⁹⁾

The freight handled in all services, permitted, certifi-
cated, and interstate, increased from 9,896 tons in 1947 to 27,993
tons in 1950.⁽¹⁰⁾

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- (6) Exhibit No. 10.
(7) Exhibit No. 11.
(8) Exhibit No. 6.
(9) Exhibit No. 4.
(10) Exhibit No. 7.

Applicant maintains and proposes to maintain terminal facilities in the Los Angeles area only. It also maintains a truck yard at Pomona and plans to establish similar yards at El Monte and Wilmington. All service calls, routing, billing and distribution of freight are handled through the Los Angeles office. The Pomona yard provides a space for holding equipment overnight, making up trains for hauling into Los Angeles, and an office in which to keep an agent and telephone to check the drivers. The proposed El Monte and Wilmington Yards will be used for the same purposes. The applicant has a total of between 55 and 60 employees.

The carrying capacity of applicant's trailers is 20,000 pounds. Using 18,000 pounds as the capacity load to allow for bulky freight, applicant, on a check made June 5, 6 and 7, 1951, ascertained that inbound from the eastern portion of the proposed service area to the Los Angeles metropolitan area its unused weight capacity was 53%, and outbound it was 50%.

Applicant called 80 public witnesses, all of whom expressed a desire that applicant's services as a highway common carrier be made available to them. The majority of these witnesses testified that their firms had increased in size since 1948, some several hundred per cent. The majority of the protestants' witnesses also stated that their businesses had increased in size since 1948. It necessarily follows that their shipping needs have increased to some, if not the same, degree. Many of applicant's witnesses stated that they need and would use applicant's twice-daily service from the Los Angeles metropolitan area. Several stated that they need and would use such services

even if the inauguration thereof required the applicant to increase its rates. A few of the protestants' witnesses likewise stated that a twice-daily service would be of benefit to them. While the majority of the witnesses use public transportation to a limited portion of the areas involved only, a substantial number desire public transportation to and between all places in the proposed service area. The commodities involved are of such varied types that the only authority which would cover the field would be one granting authority to carry general commodities with the exceptions specified by the applicant. Numerous complaints against the existing services were raised by the applicant's witnesses. Complaints were made, among other things, that the existing carriers make pickup too early to meet the shippers' needs, that protestants could not furnish enough or proper equipment to handle shipments, that pickups were not made on the day called for, and, in several instances, were made two to three days later, that shipments were delayed in transit, that it was difficult to get the carriers to handle long steel, that the equipment tendered by the protestants was such that loading or unloading was difficult, that goods were damaged, and that deliveries of inbound shipments were too late. Many of the public witnesses testified that they had used applicant's services and preferred them to those of the protestants. A substantial number of the applicant's witnesses use and are satisfied with the protestants' services, but also desire that applicant's proposed services be available to them. Opposed to this is the evidence of 63 shippers or receivers who stated that they used the services of various protestants, and that those services were satisfactory.

The majority stated also that they had no need for a twice-a-day service from the Los Angeles metropolitan area. As we have heretofore stated in another matter, ⁽¹¹⁾ it is impossible to reconcile the views expressed by the witnesses called on behalf of the applicants with the views of those called on behalf of the protestants. It must be concluded that, as to some of their customers, protestants render a satisfactory service, while as to others they may not. In the latter group is a substantial number of firms which depend on motor transportation in the conduct of their businesses. They have stated that, both as a matter of convenience and necessity, the proposed service is required. Their testimony cannot be eliminated by the fact that other shippers whose problems and demands may or may not be the same, are satisfied with the services of the protestants.

In addition to the public witnesses, Dr. Cecil L. Dunn testified relative to the growth of the territory involved. This witness has been engaged for 12 years in economic research relating primarily to regional development, to land use and similar questions. Dr. Dunn presented Exhibit No. 13 showing facts and figures relative to the development of the area from 1930 to 1950. We make particular reference to the development since 1948 of the area involved east of Los Angeles. In that period the cities have each shown substantial increases in size. The population of Alhambra has increased from 41,000 to 51,284. There are 150 to 155 industrial firms employing over 6,000 workers. C. F. Braun and Company, manufacturer of refinery apparatus, is expanding at a cost of approximately \$2,000,000.

(11) Application of Merchants Express et al, Decision No. 45232, dated January 9, 1951, on Applications Nos. 35150 and 31162.

The population of Arcadia has increased from 18,331 to 22,328. Azusa has grown from 8,506 to 10,863, and six firms, Lucky Lager Brewing Company employing 400, Gilfillan Bros., employing 300, Electronic Technic Corporation, employing 350, Chapel Furniture Co., employing 50, Vinell Steel Company, employing 200, and Richco Chemical Company, employing 75, have located therein. The population of Chino increased, and eight small firms have located therein. The population of Claremont has increased from 3,986 to 6,216, and of Covina has increased from 7,153 to 8,073. Approximately 50 new small industrial firms have come to El Monte since January 1, 1951. In addition, an aviation corporation has purchased 230 acres and is planning a \$1,000,000 airport employing 500 persons. A pump and machinery company has purchased 47 acres for a plant and will employ 500. A radio corporation has purchased 10-1/2 acres for a plant and will employ approximately 500 persons. It is anticipated that an oil filter firm employing approximately 100 persons will be established in Glendora. Monrovia has increased from 18,011 to 20,015, and 17 industrial firms employing 700 persons have located there in that period. The population of Ontario has increased over 1,000, four industrial firms employing 480 persons have located there since 1948, and an airport which will employ 2,500 persons is in the course of construction. Pomona has increased in population from 31,329 to 35,160. Ten industrial firms employing 441 persons have located there since 1948. Consolidated Vultee Aircraft Corporation has purchased 144 acres for construction of a \$50,000,000 guided missile plant which will employ up to 5,000 persons. The American Brake Shoe Company is planning construction of a \$1,000,000 plant which will employ approximately 2,000

persons. The population of San Gabriel has increased from 16,840 to 20,205. The population of Upland has increased from 8,000 to 9,125, and the population of West Covina has increased from 2,475 to 4,511.

Dr. Dunn further testified that in the whole of the proposed service area east of the Los Angeles metropolitan area the population is 334,000 compared with 236,872 in 1948, an increase of 41%,⁽¹²⁾ or approximately 98,000, a population equivalent to that of a city the size of Richmond or San Jose, California, in 1940, that the rate of growth taking place in the area involved east of the Los Angeles metropolitan area is one of the greatest in California, and that he could see no reason why the growth should not continue in the future as it has in the past two years.

The protestants argue that their present services are adequate to meet the shippers' needs and that changed conditions do not justify granting the application.

In 1949 the Pacific Freight Lines, the largest carrier in the area, had 1,200 pieces of equipment of all types. 166 pieces of pickup and delivery equipment were stationed at the Los Angeles terminal, 10 pickup trucks and 5 line tractors were stationed at the Wilmington terminal, 12 trucks and 3 tractors were stationed at San Gabriel, 8 pickup trucks and 4 line tractors were stationed at Pomona, and 11 pickup trucks and one line tractor were stationed in San Bernardino and used for service in the eastern end of the proposed service area (see Decision No. 43308, dated September 20, 1949, Application No. 29726). At the time

(12) Exhibit No. 14.

of the hearings herein, Pacific Freight Lines had increased its fleet to 1,484 pieces of equipment of all types, ⁽¹³⁾ including 9 35-foot semitrailers. 227 pieces of equipment, including 121 pickup trucks, 32 pickup tractors, 27 heavy duty tractors, and 46 semitrailers, are stationed at the Los Angeles terminal, 12 pickup and delivery trucks and 6 tractors are stationed at Wilmington, 11 pickup and delivery trucks and 4 tractors are stationed at San Gabriel, 8 pickup trucks and 4 tractors are stationed at Pomona, and 12 pickup and delivery trucks and one ⁽¹⁴⁾ line tractor are stationed at San Bernardino. The equipment located at various stations is about 500 pieces. The balance of the equipment is used in line-haul work or is kept in the Los Angeles pool. Pacific Freight Lines holds itself out to give daily overnight service between any two points it serves in applicant's proposed service area. Same-day service is rendered on request for shipments weighing in excess of 2,000 pounds.

Pacific Freight Lines highway common carrier authority in the area is very broad, it having authority to serve practically ⁽¹⁵⁾ all points in the proposed service area.

In 1939 Southern California Freight Lines had 572 pieces of equipment. At the time of the hearings herein it had 719 pieces of equipment, including 16 35-foot stake semitrailers, ⁽¹⁶⁾ and had pieces of equipment on order. It gives a same-day

(13) Exhibit No. 28.

(14) Exhibit No. 29.

(15) See, for examples, Decision No. 24396, dated January 18, 1932, on Application No. 17517 (37 C.R.C. 40); Decision No. 28848, dated May 15, 1936, on Application No. 20568; and Decision No. 28850, dated May 28, 1936, on Application No. 20580.

(16) Exhibit No. 19.

service on loads of 2,000 pounds or over originating in Los Angeles. Southern California Freight Lines has the right to serve as a highway common carrier between the Los Angeles metropolitan area and Sierra Madre ⁽¹⁷⁾ only in the proposed service area. It can, therefore, be considered as a competing highway common carrier to a limited extent only.

The Santa Fe Transportation Company is a wholly owned subsidiary of The Atchison, Topeka and Santa Fe Railway Company. It renders an overnight trucking service between the majority of points in the Los Angeles metropolitan area and points east thereof in applicant's proposed service area as shown on Exhibit No. 9. Pursuant to Decision No. 46872, dated March 17, 1952, in Application No. 32183, it serves all points in applicant's proposed service area east of the Los Angeles metropolitan area except Alta Loma, Crestmore, Charter Oak, Temple City and the California Institute for Men near Chino. On January 1, 1951, it had 304 pieces of equipment, including 67 tractors, 119 trailers and 73 pickup trucks. After January 1, 1951, it acquired 7 tractors and 4 pickup trucks, making the total of 315 pieces of equipment in service on May 1, 1951. ⁽¹⁸⁾ In addition, Santa Fe Transportation Company hires local draymen to make pickups and deliveries at several points involved in the application.

(17) Authority granted by Decision No. 15798, dated December 28, 1925, on Application No. 11926, acquired by Southern California Freight Lines by Decision No. 39413, dated September 17, 1946, on Application No. 20674. Decision No. 46624, dated January 8, 1952, and Decision No. 47386, dated June 30, 1952, on Case No. 5232. ✓

(18) Exhibit No. 34.

Pacific Motor Trucking Company is a subsidiary of Southern Pacific Company. It operates 125 pickup and delivery units in the Los Angeles metropolitan area, and gives a daily overnight service between the major portion of the Los Angeles metropolitan area and applicant's proposed service area to the east thereof. This carrier has highway common carrier rights authorizing it to serve all points in the area east of the Los Angeles metropolitan area shown in Exhibit No. 9, except Crestmore, Cucamonga, Temple, West Covina, Bassett and South
(19)
Fontana.

These last two named carriers, Santa Fe Transportation Company and Pacific Motor Trucking Company, each have limited rights which in a large measure prevent them from fully serving the general public. Neither carrier may, with certain exceptions shown in their certificates, serve points intermediate of rail points along the designated routes. It thus appears that there is at present one carrier only serving the whole of the proposed service area.

In the record herein there is nothing to show that the protestants will be injured by the granting of the requested authority. The record shows that a substantial number of shippers desire the services of the applicant as a highway common carrier, that some shippers desire services by the applicant to all points in the proposed service area, and that others desire to have a choice of at least two carriers to all points in the area. A

(19) Decision No. 46872, dated March 17, 1952, on Application No. 32183.

substantial number of shippers also desire to have twice-a-day services available for the transportation of any size shipments from the Los Angeles metropolitan area to the remainder of the proposed service area. As we have heretofore stated, Pacific Freight Lines is the only highway common carrier at the present time with unlimited authority to serve the entire area, and, disregarding the desires of shippers, it appears that this carrier, regardless of its size, is on occasion unable to furnish equipment as needed. In addition thereto, the record shows that the proposed service area is one of the rapidly growing industrial areas in California.

Upon the record herein, we are of the opinion and find that public convenience and necessity require that the applicant be given the authority it has requested.

O R D E R

Public hearings having been held and the Commission having found that public convenience and necessity so require,

IT IS ORDERED:

I

That a certificate of public convenience and necessity be, and it hereby is, granted to Public Freight System, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of commodities generally, except,

- a. Household or personal effects commonly used in a household, such as clothing, furniture, furnishings, radios, musical instruments, stoves, and refrigerators when transported uncrated and unpacked in connection with so-called household movement;

- b. Fixtures and equipment such as furniture, furnishings and other appurtenances commonly used in a store, office, museum, institution, hospital or other establishment when transported uncrated and unpacked, and any household goods, fixtures and equipment when not intended for resale and when transported uncrated and unpacked;
- c. Motion picture films, motion picture advertising matter, motion picture theater accessories and electrical fixtures, bulbs and globes, motion picture production machinery and parts and tickets, when transported to theaters or other similar places of amusement or in the return direction from such establishments;
- d. Petroleum and petroleum products in tank trucks;
- e. Livestock.

- (1) Between all points and places in the Los Angeles metropolitan area described as follows:

Beginning at the point at which the westerly boundary of the City of Los Angeles meets the Pacific Ocean (between Sunset Boulevard and Topanga Canyon Road), thence along the westerly, northerly, and easterly boundaries of the City of Los Angeles to the intersection of the easterly boundary of the City of Los Angeles and Foothill Boulevard, thence along Foothill to its intersection with the westerly boundary of the City of Pasadena, thence along the westerly, northerly, easterly, and southerly boundaries of the City of Pasadena to the intersection of the southerly boundary of the City of Pasadena and the easterly boundary of the City of San Marino, thence along the easterly and the southerly boundaries of the City of San Marino to the intersection of the southerly boundary of the City of San Marino and the northeasterly boundary of the City of Alhambra, thence generally westerly along the northeasterly and northerly boundaries of the City of Alhambra to the intersection of the northerly boundary of the City of Alhambra with the easterly boundary of the City of Los Angeles, thence southerly along the easterly boundary of the City of Los Angeles to its intersection with Third Street,

thence east along Third Street to the northerly boundary of Montebello, thence along the northerly and northeasterly boundaries of the City of Montebello to the easterly boundary of the City of Montebello, thence in a generally southeasterly direction along a prolongation of the northeasterly boundary of the City of Montebello to the intersection of such line and the San Gabriel River, thence in a generally southerly direction along the San Gabriel River to the Pacific Ocean, thence in a generally westerly and northerly direction along the coast line of the Pacific Ocean to the point of beginning,

on the one hand, and Fontana, California, on the other hand;

- (2) Between all points and places in the Los Angeles metropolitan area described in ordering paragraph I (1) of the order herein, on the one hand, and, on the other hand, all points intermediate between said area and Fontana and within a radius of three miles on either side of the highways described in ordering paragraph II (c), and, in addition thereto, the off-route points of Chino and the California Institute for Men.
- (3) Between any two points, both of which are located in the service area authorized east of the Los Angeles metropolitan area as hereinbefore described.

II

That, in providing service pursuant to the certificate hereinbefore granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicant shall establish the service herein authorized by filing in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

(c) Subject to the authority of this Commission to change or modify the same at any time, applicant shall conduct operations pursuant to the certificate herein granted, over and along the following-described routes:

1. Over any and all streets and highways within said Los Angeles metropolitan area as herein defined, to the easterly boundary of said area and U. S. Highway 66, thence over U. S. Highway 66 to Sierra Avenue, thence over Sierra Avenue to Fontana, California;
2. Over any and all streets and highways within the Los Angeles metropolitan area as herein defined, to the easterly border of said area and Valley Boulevard, thence via Valley Boulevard to Pomona, California, thence via U. S. Highway 99 to Sierra Avenue, thence via Sierra Avenue to Fontana, California.
3. From Chino to the California Institute for Men via State Highway 71.
4. Via any available route between two or more points in the area herein authorized to be served east of the Los Angeles metropolitan area.

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

Dated at San Bernardino, California, this 9th day of December, 1952.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners