

**ORIGINAL**

Decision No. 48341

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HAYES AUTO PARTS, a limited partnership, )  
to operate a highway carrier service )  
between Dixon and Sacramento, Davis, )  
Winters and Vacaville and to establish )  
rates. )

Application No. 33800

Joseph W. Raftexy for applicant.  
E. F. Gardner doing business as Montecello Stage Line  
in propria personae, protestant.  
W. L. Warner doing business as Sacramento Auto  
Truck Co., in propria personae, protestant.  
Frederick E. Fuhrman for Southern Pacific Company and  
Pacific Motor Trucking Co., protestants.  
Frederick W. Mielke for Delta Lines, Inc., protestant.  
Douglas Brookman for Merchants Express Corporation and  
Pacific Greyhound Lines, protestants.

O P I N I O N

✓ This application filed October 14, 1952, requests the issuance of a certificate of public convenience and necessity authorizing service as a highway common carrier for the carriage of general commodities except livestock, bulk agricultural commodities and bulk petroleum in tanks or trailers, between Dixon, Sacramento, Davis, Winters and Vacaville. In describing the proposed service applicants state they will receive requests for service and instructions at their place of business and will daily pick up goods, wares and merchandise at the termini for delivery at one of the other termini. In most cases the pickup will be made at Sacramento and delivery will be made at one of the other termini. As further justification for the request it is alleged that, at the present time none of the communities herein mentioned has available any quick means of obtaining wholesale or retail items from the Sacramento marketing area or the marketing areas of the nearby communities. The proposed service it is said will enable merchants or residents to obtain in any business day from Sacramento, or from the other communities herein mentioned, goods,

wares and merchandise necessary for their business or farming operations, upon call to applicants' place of business at Dixon, California. Such service, it is estimated, will be approximately three times as quick as present existing carrier service.

Public hearings were held before Commissioner Mitchell and Examiner Rowe. Hearings in Dixon were held December 5, 1952, and January 23, 1953, and in San Francisco on February 6, 1953. On the latter date the matter after oral argument was duly submitted for decision.

Applicant is a limited partnership consisting of John M. Hughes and Earl Dale Hayes general partners and Earnest Soares a limited partner. Mr. Hayes was the witness who described the proposed operation. The firm at present operates and for fifteen years had conducted an automobile parts business. In that business the witness daily goes to Sacramento to procure merchandise sold in the auto parts store.

He stated that since he was required to make the trip daily in the present business using a one-half ton pickup truck he would like to use the available truck space to serve the public. According to his testimony applicant proposes leaving Dixon every morning at approximately 8:30 a.m. and after picking up merchandise in Sacramento, returning at about 5:00 p.m. Except as to emergency shipments which would be delivered that same evening regular freight shipments would be delivered in and around Dixon the next morning between 8:30 and 10:30 a.m. During the hearings applicants abandoned the request to serve any points other than Dixon and environs and Sacramento.

Applicants failed to prove that the service proposed would have the alleged effect of shortening delivery time of shipments including so-called emergency shipments of freight. The

witness Hayes stated that the operation is proposed primarily for the carriage of the partnership's own freight and that only the remaining space in the truck would be available for carrying freight for the public. This statement casts doubt upon the claim that common carrier service is proposed.

Seven public witnesses appeared on behalf of applicants. These gentlemen mostly were customers of applicants' auto parts store. The public witness testimony, although it stated that the primary need was for the expediting of the movement of emergency shipments, was based upon a misunderstanding of applicants' proposed service.

The Commission finds that there is insufficient evidence of record to justify a finding that public convenience and necessity requires the highway common carrier service proposed. The application will accordingly be denied.

Application having been filed, public hearings thereon having been held and the matter being duly submitted,

IT IS ORDERED that Application No. 33800 be and is denied.

The effective date of this order is twenty days after its date.

Dated at San Francisco, California, this 16<sup>th</sup> day of March, 1953.

R. J. [Signature]  
President

Harold S. [Signature]

[Signature]  
[Signature]

Commissioners

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