

ORIGINALDecision No. 48704

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HARRY G. ARNESEN and F. HELEN ARNESEN, copartners, doing business under the firm name of METRO PARCEL SERVICE, for a certificate of public convenience and necessity authorizing the transportation of freight, with certain exceptions, between Los Angeles and vicinity, Arcadia, Baldwin Park, Chino, Colton, Corona, Cucamonga, Glendora, Monrovia, Ontario, Pomona, Redlands, Riverside, San Bernardino, San Gabriel, Temple City, Upland and Yucaipa, California, serving all intermediate points.

Application No. 31769
as amended.

Turcotte & Goldsmith, by F. W. Turcotte, for applicants. Gordon, Knapp & Gill, by Joseph C. Gill, for Pacific Freight Lines and Pacific Freight Lines Express, Robert W. Walker and Matthew H. Witteman, by Matthew H. Wittoman, for The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company, E. P. Merry, for Southern California Freight Lines and Southern California Freight Forwarders, E. L. H. Bissinger and John H. Gordon, for Pacific Electric Railway, Southern Pacific Company, and Pacific Motor Trucking Company, protestants. Freston W. Davis, for United Parcel Service, interested party.

O P I N I O N

By Decision No. 46611, dated January 3, 1952, in Application No. 31769, as amended, Harry G. Arnesen and F. Helen Arnesen, copartners, doing business under the firm name of Metro Parcel Service, were granted a certificate of public convenience and necessity authorizing the transportation as a highway common carrier of general commodities, with certain exceptions, between

the Los Angeles Drayage Area, on the one hand, and, on the other, Montebello, Monterey Park, Alhambra, South Pasadena, Sierra Madre, Pomona, Corona, Riverside, Highland, Redlands, San Bernardino, Colton, Yucaipa, Alessandro via specified routes serving intermediate points and off-route points within ten miles of either side of the highways involved. The authority was restricted to the delivery of packages of 500 pounds or less from manufacturers, manufacturers' agents, wholesalers, warehouses, jobbers, commercial distributors and retailers, except for transportation from Pomona to points north, east and west thereof. Further, the authority was restricted against transportation of freight between points both located in the Los Angeles Drayage Area.

The protestants, on January 14, 1952, filed a petition for rehearing which was principally directed to four allegations: (1) that the evidence and record made is insufficient to support the finding that public convenience and necessity require applicants' proposed hauling of general commodities without restriction as to weight between Pomona and points to the east, north and south thereof; (2) that the description of points to the east, north and south thereof is ambiguous, indefinite and uncertain; (3) that the grant of authority to off-route points within ten miles of either side of the highway is unsupported by the evidence, erroneous and unlawful; and (4) that the grant of authority to transport packages of 500 pounds or less was arbitrary and not supported by the evidence.

Applicants, on January 21, 1952, filed a reply to the protestants' petition for rehearing, to which protestants filed an answer on January 25, 1952.

This Commission issued an order granting a rehearing on February 19, 1952, and rehearing was held in Los Angeles on May 27, 28 and 29, 1952. On these dates evidence was adduced, and on the last-named date the matter was submitted subject to the filing of briefs. Briefs now have been filed by both applicants and protestants. The matter is ready for decision.

At the hearing an amendment to the original application was filed, which amendment incorporated various oral amendments made at the original hearings and also changed the name of applicants to Metro Freight Service.

Applicants, at the rehearing, presented the testimony of eight public witnesses. Five of these testified at the original hearings in this matter and three were new to these proceedings. All of them stated they have used applicants' services with satisfactory results. They advanced various reasons for preferring applicants' services over those of other carriers, including the fact that applicants make Saturday deliveries, late afternoon pickups if desired, render a more personal service, and their customers prefer applicants. This testimony, coupled with the public witness testimony presented at the prior hearings, the prior record being incorporated herein, constitute the applicants' showing as to public convenience and necessity.

One of the copartners of applicant company presented an operating statement for the period January 1, 1952, to

April 30, 1952, and a statement of assets and liabilities as of April 30, 1952. These statements show that the applicant company operated at a profit during the period covered. The witness testified that there has been an increase in business during this period, largely from existing customers. He further stated that the company has transported packages and articles weighing in excess of 500 pounds, and to restrict against such hauling would eliminate about 35 per cent of applicants' revenue. He pointed out that some shippers desire transportation for packages both over and under 500 pounds. An examination of the assets as shown on the operating statements disclosed that there was no deduction for depreciation. The witness conceded that a depreciation figure of \$12,482.68 should be allowed and this would reduce the assets to \$16,205.90.

The protestants produced additional testimony tending to show the present operations of the existing carriers. The traffic coordinator for Pacific Freight Lines testified that that company had made a check of its three terminals located in the proposed service area of applicants east of Los Angeles, viz., San Gabriel, Pomona and San Bernardino. During this check, which covered the dates June 5, 1951, and December 5, 1951, it was found that 4,138 shipments had been picked up and delivered in the area served by the three terminals in the proposed service territory east of Los Angeles. Of these, 3,587 were shipments of 500 pounds or less. This amounted to 87 per cent of all shipments handled, and it was pointed out that the average weight of the shipments constituting this 87 per cent was 344 pounds. Exhibits R-1 to R-7, inclusive, were presented

to show this data. It was disclosed that this check covered certain areas such as Pasadena, Alhambra, Montebello and Monterey Park because of the ten-mile lateral authority set out in Decision No. 46611, supra. However, it should be observed that the amended proposal of applicant, as submitted at the rehearing, proposes no lateral service west of Rosemead Boulevard.

Further testimony by Pacific Freight Lines consisted of a balance sheet as of December 31, 1951, and an income statement for the year ending December 31, 1951.

A witness for the Santa Fe Transportation Company presented Exhibit 8, showing shipments handled by that company in the area proposed to be served by applicants, for five specified days, January 15, March 13, May 16, July 19 and September 21, 1951. This witness testified that any loss of business would be detrimental to the Santa Fe Transportation Company inasmuch as it needs all of the business it now handles to maintain a satisfactory operation. Upon cross-examination it was disclosed that this company does not have lateral rights in the area but delivers to all incorporated cities on Highway 66 between Los Angeles and San Bernardino.

A witness for Southern California Freight Lines presented Exhibit 9, which is a table showing the classification by weight of all freight handled on the entire Southern California Freight Lines system on March 27, 1950. This table shows that a large number of the shipments are those which weigh less than 500 pounds. The witness contended that the system-wide experience, as disclosed by this exhibit, would be similar to the experience in any one territory and specifically to the experience in the territory herein concerned.

The applicants presented Exhibits R-13 to R-17, inclusive, which exhibits show the population, building permits, bank deposits and postal receipts, at various points in the area proposed to be served.

It was contended in protestants' brief that lower rates are not a basis for a grant of operating authority. Likewise, at the rehearing, at least two of the witnesses indicated they expected lower rates from applicants. However, it is clear that applicants propose to charge rates comparable to those in Highway Carriers' Tariff No. 2 and to become a party to Southwestern Motor Tariff Bureau Local and Proportional Freight Tariff No. 18-A, Cal. P.U.C. No. 10, J. L. Beeler, Agent. So far as rates are concerned, our decision herein is made with applicants' proposal in mind.

After considering all of the evidence in this matter, both that presented at the rehearing and that presented at the original hearing, we now affirm our prior finding made in Decision No. 46611, supra, "that to grant to applicants highway common carrier rights between Los Angeles and the requested points generally to the east thereof for the carriage of general commodities might seriously dilute available traffic revenue to the detriment of existing carriers. . . . So far as transportation of packages and parcels is concerned, the Commission finds from the evidence of record that public convenience and necessity require an additional highway common carrier."

In Decision No. 46611, supra, we authorized the transportation "of packages and parcels not exceeding 500 pounds in weight." A review of this record leads us to the conclusion, and

we now find, that applicant should be authorized to transport shipments not exceeding 500 pounds in weight. We further find that such transportation is required by the public convenience and necessity between the Los Angeles Drayage Area to the points and along the routes hereinafter set out.

While applicants request authority to serve all points and places within ten miles of either side of the routes traversed, the evidence presented does not substantiate such authority; therefore, we will authorize lateral rights of three miles on either side of the routes.

So far as service from the Pomona area is concerned, we find that public convenience and necessity require the institution of a general freight service without any weight limitations as hereinafter set out.

We agree with the contention of protestants that the description of the points to the east, north and south of Pomona is indefinite and uncertain, and, accordingly, that description will be corrected in the ensuing order. As to the problem of off-route points and the method of determining them, we find that on this record it will be more practicable to use airline miles. Accordingly, applicants will be granted authority for off-route points within three airline miles of either side of the highways authorized east of State Highway 19.

Harry G. Arnesen and F. Helen Arnesen are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing, for any amount of money in excess of that originally paid to the state as the consideration for the grant of such rights. Aside from their purely permissive

aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Rehearing in the above-entitled matter having been granted, public hearings having been held thereon, briefs having been filed by the parties, the matter being duly submitted and the Commission hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Harry G. and F. Helen Arnesen, copartners, doing business under the firm name of Metro Freight Service, authorizing them to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of general commodities, with the following exceptions: livestock, perishable commodities, articles requiring refrigeration, household goods, new uncrated, unwrapped and unpacked furniture, petroleum and petroleum products in tank vehicles, explosives, and commodities contaminating to other lading, along the routes and between the points hereinafter specified:

U. S. Highway 66 between the Los Angeles Drayage Area, as defined in Public Utilities Commission Case No. 4121, and San Bernardino.

U. S. Highway 60 between the Los Angeles Drayage Area and Riverside.

U. S. Highway 99 between the Los Angeles Drayage Area and Redlands.

Valley Boulevard between the Los Angeles Drayage Area and its intersection with U. S. Highway 60.

State Highways 18 and 71 and U. S. Highway 91 between Pomona and Riverside.

U. S. Highways 91 and 395 between Riverside and San Bernardino.

The following enumerated highways between the intersection of each with U. S. Highway 66 and U. S. Highway 60: Atlantic Boulevard, Rosemead Boulevard, Azusa Avenue, San Dimas Avenue and Etiwanda Avenue.

Peck Road between its intersection with U. S. Highway 66 and El Monte.

Central Avenue and Euclid Avenue between their respective intersections with U. S. Highway 66 and State Highway 71.

Adams Avenue and Hammer Avenue between the intersection of Adams Avenue and U. S. Highway 60 and Corona.

U. S. Highway 99 and Redlands Boulevard between Redlands and Yucaipa.

(2) The authority herein granted is subject to the following restriction:

Except for transportation of shipments originating in Pomona and destined to points east of Garey Avenue, applicant shall not transport any shipments weighing in excess of 500 pounds.

(3) Authority is granted herein to serve all intermediate points and all points and places lying within three miles of either side of the above-described routes, except that no service is to be rendered under these lateral rights at any points west of State Highway 19.

(4) That in the operation of the highway common carrier service pursuant to the foregoing certificate, applicant shall conform with and observe the following service regulations:

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

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

Dated at San Francisco, California, this 24th day of March, 1953.

A. J. ... President
Harold A. Kula
Samuel D. Patton
J. E. ...

 Commissioners