

ORIGINAL

Decision No. 48593

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ALBERT S. HANDY JR., doing business)
 as HANDY MOTOR LINES, for a certifi-)
 cate of public convenience and)
 necessity for the transportation of)
 property as a HIGHWAY COMMON CARRIER)
 over public highways serving points)
 within the areas of Los Angeles,)
 Orange, Riverside and San Bernardino)
 Counties shown upon Map 8 of P.U.C.)
 Distance Table 4, Section 4, plus)
 areas of Orange County not shown)
 thereon.)

Application No. 33689

Ovila N. Normandin, for applicant. Robert W. Walker and Wallace L. Ware, by Wallace L. Ware for The Atchison, Topeka and Santa Fe Railway Company; Joe Araiza, Rodney F. Darby and Wallace L. Ware for Santa Fe Transportation Company; Warren H. Biscailuz, for Pacific Freight Lines and Pacific Freight Lines Express; John B. Robinson and H. P. Merry for Southern California Freight Lines and Southern California Freight Forwarders; John H. Gordon for Southern Pacific Company, Pacific Electric Railway Company and Pacific Motor Trucking Company; protestants. Turcotte and Goldsmith by Frank W. Turcotte, for Auto Purchasing Agency, Furniture Fast Freight and Sunrise Delivery, Inc., interested parties.

O P I N I O N

By the application as amended, Albert S. Handy, Jr., an individual doing business as Handy Motor Lines, seeks a certificate of public convenience and necessity permitting him to do business as a highway common carrier, as defined in Section 213 of the Public Utilities Code of California, for the

transportation of new crated household and commercial furniture, new crated, boxed and cartoned fixtures, new packaged, boxed or cartoned appliances, new packaged, boxed or cartoned household equipment and supplies related to the afore-mentioned commodities, new tires, tubes, batteries, and printed matter, ⁽¹⁾ between Los Angeles, Long Beach, or Santa Ana, on the one hand, and all points, places and areas in Orange County, on the other hand, over and along any and all highways, streets and roads in Los Angeles and Orange Counties, excluding intermediate points outside of Orange County.

The rates, rules and regulations proposed to be assessed and observed are those set forth in Southwestern Motor Tariff Bureau Local, Joint and Proportional Freight Tariff No. 18-A, Cal. P.U.C. No. 10 of J. L. Beeler, Agent, supplements thereto and successive issues thereof.

Shipments will be limited to those weighing in excess of 99 pounds and service will be on call, Mondays through Fridays. Shipments will be delivered on Saturdays at customers' request. The maximum period of time from pickup to delivery will be 24 hours. ⁽²⁾

Public hearings were held before Examiner Rogers on September 23 and October 3, 1952, and on January 12 and 13, 1953, in Santa Ana, and on January 28, 1953, in Los Angeles,

(1) The specific items applicant seeks to transport are listed in Exhibit No. 15.

(2) Several of the applicant's witnesses stated that they desire to use applicant's services because he will make pickups until 1:00 p.m. and deliver the same day in the proposed service area. Applicant stated, however, that same-day delivery is not his holding out, but rather not to exceed 24 hours from pickup to delivery.

at which latter time the matter was submitted subject to the filing of concurrent briefs. These briefs were filed on April 6, 1953. The matter is now ready for decision.

Applicant is a newcomer in the transportation field, having received his initial highway contract carrier's permit on October 26, 1951, and his city carrier's permit on October 30, 1951. He has held no other authority from this Commission. Applicant's service under the contract carrier's permit is limited to the carriage of new household and commercial furniture, fixtures, appliances, equipment and supplies in Los Angeles, Orange, Riverside and San Bernardino Counties. Applicant's service under his city carrier's permit is limited to the transportation of new household, office, store and institutional furniture, fixtures, appliances and printed matter in the City of Santa Ana.

If he is given the authority he desires, applicant will continue to serve as a contract carrier in Los Angeles, Riverside and San Bernardino Counties at points he is not authorized to serve as a highway common carrier.

Applicant proposes to transport limited commodities, in shipments weighing in excess of 99 pounds, between Los Angeles, Long Beach or Santa Ana, on the one hand, and, on the other, any and all points in Orange County. There will be no local shipments in Orange County unless Santa Ana is either the origin or destination thereof. To perform the service, applicant has one terminal in Santa Ana. This terminal is leased and has space, under cover, for the simultaneous loading or unloading of five

(3)
trucks, together with office space, storage room, garage and parking area. He has Zenith telephone service between his Santa Ana terminal and Los Angeles. Patrons in Long Beach will reverse charges when calling for service. At the commencement of the hearings applicant had seven pieces of equipment, all with removable side racks, varying from two-ton to one-half-ton capacity. By the time the hearings were terminated applicant had added one tractor, one van semitrailer and one stake body semitrailer. He has five full-time drivers, and two men who perform driving or help on the dock as occasion demands. Applicant does the accounting and billing and helps with the loading and unloading. The drivers' salaries were the subject of some discussion. It appears that these drivers presently receive \$60 per week salary. Applicant was asked if he was not having trouble with the unions concerning these salaries and he stated, in effect, that the unions are not bothering him at present as they realize the business is just getting started.

Disregarding applicant's services in the City of Santa Ana, he has, he stated, twenty "contracts"⁽⁴⁾ under which he performs hauling outside of the City of Santa Ana. He will negotiate a "contract" with any shipper.

(3) Applicant stores appliances for customers and delivers stored merchandise from his dock. He makes a flat charge, e.g., one dollar per month for a freezer regardless of size. He is not licensed as a warehouse. See Exhibit No. 11 for diagram of facilities.

(4) See Exhibit No. 14. All agreements are on the same form.

As of December 31, 1952, applicant had current assets of \$1,978.51 and current liabilities of \$1,176.42⁽⁵⁾. During the year 1952 his net income from the business amounted to only \$217.91⁽⁶⁾. Applicant explained that his sole income was derived from the operation of the truck line and that the remainder of his living expenses, over and above the \$217.91, came from the item "depreciation expense" reflected under "expenses" on Exhibit No. 5-A. He also stated that he has on hand no part of the item "reserve for depreciation and amortization" shown under "property and investments" on Exhibit No. 4-A.

As applicant has no funds with which to replace worn out or obsolete equipment it appears that he is in no position to insure this Commission the continuation of service if he is given a certificate. In fact there is grave doubt that applicant's operating statement will meet the financial requirements of a sound and stable common carrier service such as applicant proposes.

In support of his request applicant produced 16 shippers or receivers. Also, stipulations were entered into between counsel relative to evidence which would have been produced by seven additional shippers or receivers. Of the 16 witnesses who testified, 11 had places of business in Santa Ana only, one in Santa Ana and Orange, one in Santa Ana and Corona Del Mar, one in Anaheim only, one in Costa Mesa only, and one in Tustin only. Of the shippers whose testimony was stipulated to,

(5) Exhibit No. 4-A.

(6) Exhibit No. 5-A.

five had places of business in Santa Ana, one in Costa Mesa and one in Fullerton. The witnesses, including those whose testimony was stipulated to, desired service from Los Angeles to their places of business except the one located in Tustin who desired service from Los Angeles to applicant's terminal in Santa Ana where the witness's merchandise is stored for delivery. In addition, the Tustin man wanted delivery service from Santa Ana to Newport Beach, Balboa, Laguna Beach and San Juan Capistrano, two or three wanted service from Santa Ana to all points in Orange County, and one or two desired service from Santa Ana to Los Angeles. Each of the witnesses who testified now uses the services of the applicant and has used such services for periods ranging from three months to periods which started prior to the time applicant received any authority from this Commission. The commodities to be carried run the gamut of those specified in applicant's request but applicant's main business appears to be in the hauling of television sets, filter tanks, cooling boxes, stoves, furnaces and freezers.

A search of the record reveals that, outside of the fact that the witnesses now use, and want the services of Handy Motor Lines continued, shippers gave two reasons for using the applicant's services: (1) their desire for expedited or same-day service, and (2) claimed delay in delivery by existing carriers.

Regarding the first point, the applicant stated very positively that his holding out is to give 24-hour service from the time of request for pickup until delivery at destination. Regardless of this fact, eleven of the witnesses stated that the

reason, or the main reason, applicant is used is that when requests for service from Los Angeles are made prior to 1:00 p.m., the merchandise will be delivered the same afternoon in Orange County. Obviously this reason cannot be considered when applicant does not hold himself out to give such service. Regarding the second point, evidence of delayed deliveries was presented by four of the witnesses. One witness stated the other carriers took two days to make deliveries, one stated they took two to three days, one stated he has had deliveries which took three to four days, and one stated he could not get 24-hour service from the other carriers. The record shows that these witnesses were not familiar with all the carriers providing service in applicant's proposed service area.

Four trucking services, Santa Fe Transportation Co., Pacific Freight Lines, Southern California Freight Lines, and Pacific Motor Trucking Company protested the application. Two railroads, The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company, and two express companies, Pacific Freight Lines Express and Southern California Freight Forwarders, likewise protested. Evidence was presented by the Santa Fe Transportation Co., Pacific Freight Lines, Pacific Freight Lines Express, and Southern California Freight Lines.

It was stipulated between the applicant and Pacific Freight Lines, Pacific Freight Lines Express, Southern California Freight Lines, Santa Fe Transportation Company, and Pacific Motor Trucking Company that these five named carriers could each produce a number of shippers or receivers of general commodities who would testify (a) that they either ship or receive

less-carload shipments of freight moving between the points within the territory involved in the application, (b) that for this purpose they have been and now are using the services of one or more of the protestants and other carriers operating in the territory involved, (c) that the service rendered by the protestants includes dependable pickup and delivery service and transportation of shipments from point of origin to destination on an overnight basis (underlining added), (d) that such service has been satisfactory and adequate to meet their needs, (e) that if highway common carrier service should be authorized and established within such territory by applicant, and service similar to that of protestants' is rendered under substantially similar rates, the shippers or consignees would not divert their shipments from the carrier service now employed to the newly established service except when requested by their customers to do so.

In addition, it was stipulated that all protestants are abundantly solvent and operating at net profits.

Pacific Freight Lines serves between Los Angeles, Long Beach and Santa Ana and all points in Orange County on U. S. Highways 101 and 101 Alternate⁽⁷⁾. It has approximately 1,500 pieces of equipment,⁽⁸⁾ including 232 stationed at Los Angeles, 13 stationed at Santa Ana, and 16 stationed at⁽⁹⁾ Wilmington. It has 861 employees at its Los Angeles terminal,

(7) Exhibit No. 21.
(8) Exhibit No. 22.
(9) Exhibit No. 23.

22 at its Santa Ana terminal, and 43 at its Wilmington terminal. (10)
The line-haul equipment used between stations is not included in
the equipment located at the various stations.

Southern California Freight Lines has authority to
serve all places in Orange County, plus Los Angeles and Long
Beach, with the right to serve between any two points, and (11)
points up to 10 miles on each side of the highways traversed. (12)
It has two terminals in Los Angeles and one in Santa Ana, (13) and
has approximately 800 pieces of equipment. This company has
a teletype service between Los Angeles and Santa Ana and Zenith
telephone service between Long Beach and Santa Ana. A direct
service is provided between Long Beach and Orange County points
and also between Los Angeles and Orange County points. These
services are overnight. In addition, protestant runs a minimum
of six trucks per day between Los Angeles and Santa Ana and
points in Orange County, providing pickup and delivery on the
same day. For this service pickups are made in Los Angeles until
about 11:00 a.m.

Santa Fe Transportation Company provides a less-carload
truck service between Los Angeles, Long Beach, and all points in
Orange County which are stations on the rail line of The Atchison,
Topeka and Santa Fe Railway Co. (14) It has a total of 304 pieces
of equipment. (15)

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- (10) Exhibit No. 24.
(11) Decision No. 48380, March 24, 1953, Application No. 32246.
(12) Exhibit No. 28.
(13) Exhibit No. 27.
(14) Exhibit No. 18 and Exhibit No. 17-A.
(15) Exhibit No. 20.

We find the evidence herein does not establish that public convenience and necessity require that applicant be granted the authority requested. 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 the application be granted,

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

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

Dated at San Francisco; California, this 13th day of May, 1953.

A. J. Davidson
President

Justus F. Culver

Harold P. Hule

Frederick J. Potter

Robert E. Mitchell
Commissioners