

**ORIGINAL**

Decision No. 48722

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ARROW PACIFIC DRAYAGE, a California  
corporation, formerly AUTO PARTS DE-  
LIVERY, INC., a California corpora-  
tion, for a certificate of public  
convenience and necessity to operate  
service as a highway common carrier  
for the transportation of general  
commodities, with certain exceptions,  
between Los Angeles and vicinity, on  
the one hand, and Bakersfield on the  
other hand, serving intermediate and  
off-route points as an extension of  
its present certificate.

Application No. 32116  
(As amended)

Donald Murchison, for applicant. Turcotte and Goldsmith, by F. W. Turcotte, for Harry Steward, dba Auto Purchasing Agency, Furniture Fast Freight, Inc., and Sunrise Delivery, Inc., Glanz and Russell, by Theodore W. Russell, for Desert Express and George Smith, dba Smith Transportation Company, John B. Robinson for Southern California Freight Lines and Southern California Freight Forwarders, Gordon, Knapp & Gill, by Frederick A. Jacobus and Joseph C. Gill, for Pacific Freight Lines and Pacific Freight Lines Express, protestants.

O P I N I O N

Applicant herein is a California corporation presently conducting operations as a highway common carrier in the transportation of automobile accessories, parts, materials, supplies and tools, and gas and diesel engines between points within certain specified areas in and in the vicinity of the City of

(1)  
Los Angeles. Authority is requested herein for a certificate of public convenience and necessity as a highway common carrier in the transportation of general commodities, with certain specified exceptions, between specified areas in and in the vicinity of the City of Los Angeles, on the one hand, and Bakersfield, on the other hand, via U. S. Highway 99. (2)

Public hearings were held before Examiner Syphers at Los Angeles on June 4, 1951, April 10 and 23, 1952, and June 17 and 18, 1952, and at Bakersfield on May 12 and 13, 1952, during which dates evidence was adduced and on June 18, 1952, the matter was submitted subject to the filing of briefs. Briefs have now been filed and the matter is ready for decision.

At the hearing the president of the applicant company testified that the present request was, in effect, a request for an extension of applicant's operating rights so as to permit service to the Bakersfield area via U. S. Highway 99 and to points within five miles of either side of the highway. It is the intention of applicant to haul general commodities with certain exceptions which are set out in the application. The proposal is to publish a tariff which will contain the rates now set out in the P.U.C. minimum rate tariffs applicable to this service. It is further proposed to maintain a pickup

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(1) Decision No. 39312, dated August 13, 1946, in Application No. 26933, granted the foregoing authority to Charles W. Schenk, doing business as Auto Parts Delivery. This operating authority was transferred to Auto Parts Delivery, Inc., a corporation, by Decision No. 40433, dated June 24, 1947, in Application No. 28513. During the course of the present hearings the name Auto Parts Delivery, Inc., was changed to Arrow Pacific Drayage.

(2) The original application was filed February 9, 1951, and was amended on April 23, 1952, by Exhibit No. 9 which was received in evidence on that date.

service in Los Angeles five days a week, Monday through Friday, which pickups will be made between the hours of 12 noon and 5:30 p.m., and to make deliveries in Bakersfield five days per week, Tuesday through Saturday, between the hours of 6:30 a.m. and 2:30 p.m. Applicant also intends to make pickups in Bakersfield for delivery in Los Angeles, although the testimony was that there would be very few of these hauls inasmuch as they would consist principally of return shipments. The applicant does not intend to solicit business in Bakersfield and will maintain no terminal in that city.

Exhibit No. 1 is a map of the area proposed to be served, and Exhibit No. 1-a is a second map showing in greater detail the Los Angeles area concerned. Exhibits Nos. 2 and 3 are photographs of the type of equipment applicant intends to use in this service. Exhibits Nos. 4 and 5 are the financial statements of applicant, Exhibit No. 4 being a profit and loss statement for the year ending December 31, 1951, and Exhibit No. 5 being a balance sheet as of February 29, 1952. Exhibit No. 10 is a second profit and loss statement for applicant covering the two-month period ending February 29, 1952.

A description of applicant's Los Angeles terminal is set out in Exhibit No. 6, and a list of equipment presently used in Exhibit No. 7. It is applicant's intention to use this same equipment in the Bakersfield haul, and it was testified that, if additional equipment is needed, applicant is in a position to obtain it.

The testimony disclosed that applicant has been operating between Los Angeles and Bakersfield under purported authority. ✓

of permits which it holds in addition to the certificate hereinbefore noted. Exhibit No. 8 was presented as a list of shipments transported by this applicant between the Los Angeles area and Bakersfield during representative days in April, June, August, October and December, 1951, and March, 1952. An additional list of shipments transported to a specified account at Bakersfield was submitted as Exhibit No. 23. In addition the parties hereto entered into a stipulation which lists the automotive and farm implement accounts in Bakersfield served by the applicant herein, and a similar listing of the accounts in Bakersfield served by one of the protestants, Auto Purchasing Agency.

The applicant's testimony was to the effect that the request for extension of operating authority to Bakersfield was being made at this time in order to remove any question as to the propriety of the present hauling which applicant conducts between Los Angeles and Bakersfield.

The evidence further disclosed that applicant maintains insurance in the amounts of \$25,000 and \$50,000 for bodily injury, \$10,000 property damage, and \$10,000 for cargo damage.

With respect to the scope of the proposed operations, the testimony was that it is the intention of applicant to serve points within five miles of either side of Highway 99, as well as five miles from the boundaries of the Los Angeles Territory and from the city limits of Bakersfield. Applicant also proposes to serve the towns of Oildale and Edison, but does not propose to serve points within five miles thereof.

Applicant presented the testimony of twenty public witnesses representing various shippers in the Los Angeles and

Bakersfield areas who testified that they were now using applicant's services, found them satisfactory, and desired to continue using them. These witnesses were principally shippers of auto parts, farm machinery equipment and parts, oil field machinery and parts, engines, hardware, and electrical equipment. One was a shipper of drapery fabrics and upholstery materials. These shipper witnesses advanced various reasons as to why they used applicant's services, which reasons included early-morning deliveries, late-afternoon pickups, Saturday deliveries, courteous drivers, and specialized services.

Evidence in opposition to the application was presented by three truck lines. The first of these, Auto Purchasing Agency, is a common carrier of automotive parts, materials and supplies, and farm implements and supplies, between Los Angeles and Bakersfield. This company, in addition to its hauling operations, maintains a purchasing service whereby it purchases auto parts in Los Angeles for various firms, and delivers them in Bakersfield. This company makes daily pickups in Los Angeles five days a week, Monday through Friday, and daily deliveries in Bakersfield on these same days. The equipment it operates is listed in Exhibit No. 21, and some of the accounts to whom it makes deliveries are shown on Exhibit No. 22. In this connection, reference is made to the stipulation previously referred to, listing the accounts of this company in the Bakersfield area.

The representative of this protestant pointed out that the preponderance of the traffic is northbound from Los Angeles to Bakersfield, amounting to between six and ten times as much traffic as is hauled southbound. He testified that if the

application were granted it was his opinion that his company would lose some of its Bakersfield business, and that if this should happen it would impair the Auto Purchasing Agency's ability to serve such smaller towns as Taft, Shafter and Wasco.

A driver for this company presented testimony concerning specific instances as to deliveries and pickups in the Bakersfield area, and further stated that deliveries in the Bakersfield area are made directly from the Los Angeles truck. The freight is not transferred to other vehicles as a general rule. He further testified that patrons of Auto Purchasing Agency may call his home in Bakersfield to place orders for service. The trucks operating between Los Angeles and Bakersfield are loaded on an average to about 75 per cent of their capacity.

Additional evidence related to the financial standing of Auto Purchasing Agency, Exhibit No. 11 being a balance sheet as of April 30, 1952, Exhibit No. 12 being a profit and loss statement for the year ending December 31, 1951, and Exhibit No. 13 being a profit and loss statement for the period ending April 30, 1952.

A second trucking company presenting evidence in opposition to this application was the Desert Express, which company is a certificated highway common carrier in the area involved. Exhibit No. 14 is a map showing the territories served by this carrier. It maintains a dock and repair shop in Los Angeles and also maintains a dock in Bakersfield. Exhibit No. 15 is a list of the equipment of this company. The witness for this carrier stated that there were many carriers operating in the territory concerned, and named nine of them.

He said his company was willing and able to handle additional traffic.

A witness for Pacific Freight Lines, which company is a highway common carrier in the territory concerned, presented Exhibit No. 16 which is a statement of the land and improvements owned by that company at its Los Angeles terminal. Exhibit No. 17 is a statement showing the cost of the land and buildings at various terminals of Pacific Freight Lines, and it will be noted that that company maintains terminals at both Los Angeles and Bakersfield. Exhibit No. 18 is a list of equipment maintained at these various terminals, including Los Angeles and Bakersfield, while Exhibit No. 19 is a list of all of the stations presently being operated by this carrier. A list of equipment of this carrier is contained in Exhibit No. 20, and an analysis thereof will disclose that this carrier is one of the largest common carriers operating in the State of California. Pacific Freight Lines normally provides pickups between 8 a.m. and 5 p.m., with special pickups at later hours or on Saturdays if requested. It maintains a similar pickup service in Bakersfield.

The opposition carriers likewise presented the testimony of fourteen public witnesses who presently are shipping auto parts, farm implements, and various other commodities via the lines of protestants between Los Angeles and Bakersfield. All of these shipper witnesses testified that the present services were satisfactory and adequate.

After a consideration of all of the evidence adduced herein and the briefs which have been filed by the parties in this matter, we find that the public convenience and necessity

do not require a service such as is proposed by applicant for the transportation of general commodities in the areas specified. However, the record does support the conclusion and we now find that public convenience and necessity require an extension of applicant's present service as a highway common carrier of automobile accessories, parts, materials, supplies, tools, and gas and diesel engines and parts, between the Los Angeles area as hereinafter set out, on the one hand, and Bakersfield, on the other hand, via U. S. Highway 99, serving all intermediate points including off-route points located within five miles of either side of the highway and within five miles of Bakersfield, and also serving the off-route points of Oildale and Edison. While applicant requested authority to serve off-route points within five miles of the Los Angeles terminal area, the showing does not support such a request, therefore, the authorization will be confined to the boundaries of this terminal area as it is now defined in Decision No. 39312, dated August 13, 1946, in Application No. 26933.

The public witness testimony presented by applicant was concerned principally with shipments of the commodities hereinabove designated. Furthermore, the expressed intention of applicant was to secure an extension of its present operating rights which are limited to commodities as hereinabove indicated. Therefore, applicant's request to transport general commodities will be denied and in lieu thereof, a certificate will be granted authorizing an extension of applicant's present rights to the Bakersfield territory.

Arrow Pacific Drayage is 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

Application as above entitled having been filed, public hearings having been held thereon, the matter having been submitted and the Commission being fully advised in the premises,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Arrow Pacific Drayage, a California corporation, for the establishment and operation of a highway common carrier service for the transportation of automobile accessories, parts, materials, supplies and tools, as more specifically described in Appendix A of Decision No. 39312, dated August 13, 1946, in Application No. 26933, and gas and diesel engines and parts, between those certain areas in and around the City of Los Angeles designated as Areas A and B and more specifically described in Decision No. 39312, ✓ supra, on the one hand, and, on the other, Bakersfield, via U. S. Highway 99, serving all intermediate points and off-route points within five miles of either side of the highway and within

five miles of Bakersfield, and serving the off-route points of Oildale and Edison.

(2) That in providing service pursuant to the certificate herein granted, there shall be compliance with 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.

(3) That in all other respects the application is hereby denied.

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

Dated at San Francisco, California, this 16th day of June, 1953.

[Signature]  
 President  
Julius F. Calver  
[Signature]

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 Commissioners

Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.

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