

ORIGINALDecision No. 49014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SAN DIEGO FORWARDING COMPANY for a)
 certificate of public convenience)
 and necessity to operate as a highway)
 common carrier for the transportation)
 of property with certain exceptions)
 from certain portions of Los Angeles)
 and Beverly Hills, California, to)
 San Diego, California.)

Application No. 34215

In the Matter of the Application of)
 (a) SAN DIEGO FORWARDING EXPRESS to)
 issue shares of its common capital)
 stock, and (b) SAN DIEGO FORWARDING)
 COMPANY to sell and SAN DIEGO)
 FORWARDING EXPRESS to purchase a)
 certificate of public convenience)
 and necessity to conduct an express)
 corporation and freight forwarder)
 business as defined in Sections 219)
 and 220 of the Public Utilities Code.)

Application No. 34216

Glanz and Russell, by Theodore W. Russell,
 for applicants.
Theo Stein, Principal Accountant, Public
 Utilities Commission.

O P I N I O N

San Diego Forwarding Company is a California corporation conducting operations as an express corporation and as a highway common carrier in the State of California pursuant to authority from this Commission. It has authority, as an express corporation, to transport property between the City of Los Angeles, with a minor exclusion, on the one hand, and the City of San Diego, on the other hand. (1) It also has authority, as a highway common carrier, to

(1) Decision No. 32175, dated July 18, 1939, in Application No. 22841; Decision No. 33070, dated May 6, 1940, in Application No. 23376 (42 C.R.C. 621); Decision No. 40172, dated April 15, 1947, in Application No. 28091.

transport property from the Los Angeles area, which includes besides the City of Los Angeles, Pasadena, South Pasadena, San Marino, Montebello, South Gate, Culver City and points intermediate to Los Angeles, on the one hand, to the cities and communities of San Diego, Coronado, North Island, El Cajon, La Mesa, Lemon Grove, National City and Chula Vista, on the other hand, subject to the conditions and restrictions, among others, that (1) applicant shall not serve any intermediate points, (2) applicant shall not serve between points within said described Los Angeles area, nor between any of the named points situated in San Diego County, and (3) applicant shall not transport any property as a highway common carrier between its present Los Angeles express zone and the City of San Diego. (2)

By Application No. 34215, San Diego Forwarding Company (hereinafter referred to as "Company") seeks a certificate of public convenience and necessity authorizing it to transport property as a highway common carrier from Los Angeles, its express corporation zone, on the one hand, to the City of San Diego, on the other hand.

By Application No. 34216, San Diego Forwarding Express, a California corporation, (hereinafter referred to as "Express") seeks authority to issue stock and to purchase Company's express corporation rights.

All certificated operations of both Company and Express are and will be southbound only. The two applications were consolidated and a public hearing was held thereon in Los Angeles on July 14, 1953, before Examiner Rogers. There were no protests.

Evidence in support of both applications was presented by Virgil B. Windle, president of Company and an incorporator of Express.

(2) Decision No. 45716, dated May 15, 1951, in Application No. 31780.

from the allegations of the verified application, the evidence presented at the hearing and the official records of this Commission of which we take judicial notice, we find the facts hereinafter set forth to be true.

Company proposes to transport general commodities, except live animals or birds, freight in dump or tank equipment in bulk, dynamite or other high explosives, and except any of the following items when tendered for shipment uncrated: household goods, personal effects, secondhand furniture, musical instruments, radios, office furniture and store fixtures and equipment.

Company will use its existing route between the Los Angeles area and San Diego, via U. S. Highways 101 and 101 By-pass.

Its rates will be in substantial conformity with those contained in the Commission's Highway Carriers' Tariff No. 2:

Service will be daily except Saturdays, Sundays and holidays, leaving Los Angeles in the evening with delivery in San Diego the following morning.

Its present equipment will be used. ⁽³⁾ It has terminals in Los Angeles and San Diego.

As of May 29, 1953, Company had current assets valued at \$42,998.03, compared with current liabilities of \$23,593.76. ⁽⁴⁾

During the first five months of the year 1953 it made a net profit of \$6,345.87. ⁽⁵⁾

Express is a California corporation formed on March 18, 1953, primarily for the purpose of operating as an express

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- (3) Exhibit No. 2.
(4) Exhibit No. 4.
(5) Exhibit No. 5.

(6)
corporation. By its Articles of Incorporation it is authorized to issue 7,500 shares of common stock at the par value of \$10 each. Its incorporators consist of Virgil B. Windle, president of Company and the owner of a majority of Company's stock, Bertye Windle, Virgil Windle's wife, and Gordon Holben, the manager of Company's Los Angeles office. Express has no assets at present but intends to purchase Company's express rights which the parties value at no dollars, and Company intends to purchase 100 shares of Express's stock at \$10 per share. The \$1,000 so received will constitute Express's assets. (7) It will have no vehicles or other equipment at the commencement of its operation.

Application No. 34215

In rendering service as an express corporation, Company has heretofore made use of the services of The Atchison, Topeka & Santa Fe Railway Company (hereinafter called Santa Fe) for providing the underlying service for the transportation of freight originating in the proposed Los Angeles service area and destined for the City of San Diego. In this service Company has heretofore used the Santa Fe terminal, and has provided an overnight service from Los Angeles to San Diego. Company has been advised that it must vacate the Santa Fe terminal in a reasonable time. Company has a terminal in Vernon which is of sufficient size to accommodate Company's express business, but this terminal has no rail siding or team track and hence Company cannot continue to use Santa Fe as its underlying carrier for its express business except by bringing traffic to some rail siding or team track, loading into cars and switching to Santa Fe's line, all of which cause delays. California Cartage Company is temporarily acting as Company's underlying carrier for its express business but California Cartage Company

Exhibit A, Application No. 34216.
Exhibit B, Application No. 34216.

does not want to continue so to operate as it desires to use its equipment for its own highway common carrier traffic. In its capacity as an express corporation Company is serving many shippers in the Los Angeles area, and these shippers will be inconvenienced and their shipments delayed by reason of the fact that Company's express traffic, if handled via Santa Fe, will be received at some siding other than the Santa Fe terminal. Company as a highway common carrier will be enabled to act as underlying carrier for Express from the total Los Angeles area to San Diego and end unnecessary delays. No existing carriers will be adversely affected if the requested authority is granted, other than Santa Fe, which requested that Company acting as an express corporation stop using Santa Fe's terminal and waived its protest to the application.

Upon the foregoing facts, we find that public convenience and necessity require that San Diego Forwarding Company be granted a certificate of public convenience and necessity authorizing it to transport property as a highway common carrier from the Los Angeles area as described in the order herein, on the one hand, to the City of San Diego, on the other hand, subject to the conditions and restrictions set forth in said order.

Application No. 34216

Express seeks authority to issue 100 shares of its common stock, at the value of \$10 per share, to Company in consideration for the transfer to Express of \$1,000 in cash and Company's express corporation rights. The purpose of the issue is to enable Express to secure working capital. The express rights are to be transferred for no money consideration. The \$1,000 represents Express's entire assets.

Since 1951 both the express corporation operation and the highway common carrier business have been conducted by the same

corporation, Company. The purpose of this application is to separate the express corporation business and the highway common carrier business into different corporations and to secure operating economy. Express and Company have agreed to the charges to be made by Company for acting as underlying carrier for Express. The tariffs of both carriers are identical. (8)

Upon the foregoing facts we find (1) that San Diego Forwarding Express should be authorized to issue \$1,000 par value of common capital stock to San Diego Forwarding Company, that San Diego Forwarding Company should be authorized to acquire said shares of stock for the sum of \$1,000 cash, that the money, property or labor to be procured or paid for by the issue of the common stock herein authorized is reasonably required by San Diego Forwarding Express for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; (2) that the transfer of San Diego Forwarding Company's express corporation rights to San Diego Forwarding Express is not adverse to the public interest and will be authorized. Such authority shall not be construed to be a finding of value of the operative rights herein authorized to be transferred.

San Diego Forwarding Express, a corporation, 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.

(8) Exhibit No. 3.

O R D E R

Applications having been filed, a public hearing having been held thereon, and the Commission having made findings as set out in the opinion herein, and having concluded therefrom that the authority requested in the consolidated applications should be granted,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to San Diego Forwarding Company, a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property from the Los Angeles area, as described in Appendix A attached to this decision, on the one hand, to the City of San Diego, on the other hand, as an extension of and to be consolidated with its existing highway common carrier rights, subject to the following conditions and restrictions:

- (a) Applicant shall not serve any points intermediate between the Los Angeles area, as defined in Appendix A, on the one hand, and the City of San Diego, on the other hand.
- (b) Applicant shall not serve between points within the said described Los Angeles area, nor between the City of San Diego and any other city or place in San Diego County.
- (c) Applicant shall not transport live animals or birds, freight in dump or tank equipment in bulk, dynamite or other high explosives, nor any of the following items when tendered for shipment uncrated: used household goods, personal effects, secondhand furniture, musical instruments, radios, office furniture and store fixtures and equipment.

(2) That in the operation of the highway common carrier 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 and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, San Diego Forwarding Company shall conduct said highway common carrier service between the following points and over the following routes:

Within the Los Angeles area as described in Appendix A and within the City of San Diego, over and along the most appropriate route or routes.

Between the said Los Angeles area and the City of San Diego, over and along U. S. Highway 101 and By-pass 101.

IT IS FURTHER ORDERED:

(1) That San Diego Forwarding Express may, within sixty days from the effective date of this order, issue and sell for cash to San Diego Forwarding Company at not less than par, \$1,000 par value of its common capital stock and use the proceeds to provide itself with working capital.

(2) That within thirty days after the issue of said stock, San Diego Forwarding Express shall file with the Commission a report as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

IT IS FURTHER ORDERED:

(1) That San Diego Forwarding Company, a corporation, may sell and transfer to San Diego Forwarding Express, a corporation, for the sum of no dollars, and San Diego Forwarding Express, a corporation, is authorized to purchase, the express corporation operating rights of San Diego Forwarding Company, a corporation, for the sum of no dollars. Said rights are grandfather rights acquired by San Diego Forwarding Company by Decision No. 32175, dated

July 18, 1939, in Application No. 22841, and Decision No. 33070, dated May 6, 1940, in Application No. 23376 (42 C.R.C. 621), and are fully described in San Diego Forwarding Company's Local Express Tariff No. 9, Supplement No. 3 to Cal. P.U.C. No. 3, issued December 18, 1952.

(2) That applicants shall file in triplicate, and concurrently make effective, appropriate tariffs within sixty days from the effective date hereof, on not less than one day's notice to the Commission and the public.

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

Dated at San Francisco, California, this 25th day of August, 1953.

R. J. [Signature]
President
Justus F. [Signature]
Edith E. [Signature]

Commissioners

Kenneth Potter
Commissioner.....Harold P. [Signature]....., being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

PICKUP AND DELIVERY LIMITS OF EXPRESS CORPORATION

OPERATIONS - LOS ANGELES AREA

Beginning at the intersection of 87th Place and Central Avenue; thence northerly along Central Avenue to Florence Avenue, thence westerly along Florence Avenue to McKinley Avenue, thence northerly along McKinley Avenue to Gage Avenue, thence easterly on Gage Avenue to Central Avenue, thence northerly along Central Avenue to Slauson Avenue, easterly on Slauson Avenue to Alameda Street, northerly on Alameda Street to 25th Street, easterly on 25th Street and its prolongation to Indiana Street, northerly on Indiana Street and its prolongation to Worth Street, easterly on Worth Street to Eastern Avenue, southerly on Eastern Avenue to Marianna Avenue, northerly on Marianna Avenue to Valley Boulevard, westerly on Valley Boulevard to Mission Road, northeasterly on Mission Road to North Broadway, westerly on North Broadway to Griffin Avenue, northerly on Griffin Avenue to Avenue 35, westerly on Avenue 35 to Pasadena Avenue, northerly on Pasadena Avenue to North Figueroa Street, southwesterly on North Figueroa Street to Anabel Street, northwesterly on Anabel Street and Isabel Street to Macon Street, southwesterly on Macon Street to Cypress Avenue, northwesterly on Cypress Avenue and its prolongation to the intersection of San Fernando Road and Eagle Rock Boulevard, northwesterly on San Fernando Road to Edward Avenue, northerly on Edward Avenue to Marguerite Street, southwesterly on Marguerite Street to West Avenue 32, northwesterly on West Avenue 32 to the boundary of Forest Lawn Memorial Park; southwesterly and northwesterly along the boundary of Forest Lawn Memorial Park to Rosslyn Street, southwesterly on Rosslyn Street to San Fernando Road, southeasterly on San Fernando Road to Tyburn Street, southwesterly on Tyburn Street and its prolongation across the Southern Pacific Company right of way to Casitas Avenue, southeasterly on Casitas Avenue to Fletcher Drive, southwesterly on Fletcher Drive to the east bank of the Los Angeles River, northerly along the east bank of the Los Angeles River to the boundary of the City of Los Angeles, westerly along the boundary of the City of Los Angeles to Barham Boulevard, southerly on Barham Boulevard to Cahuenga Boulevard, southeasterly on Cahuenga Boulevard to Mulholland Highway, thence westerly along Mulholland Highway to Coldwater Canyon Road, southerly on Coldwater Canyon Road to the boundary of the City of Beverly Hills, southwesterly along the boundary of the City of Beverly Hills to the intersection of La Cienega Boulevard and Olympic Boulevard, easterly on Olympic Boulevard to Victoria Avenue, southerly on Victoria Avenue to Exposition Boulevard, easterly on Exposition Boulevard to Crenshaw Boulevard, southerly on Crenshaw Boulevard to 52nd Street, westerly on 52nd Street to Victoria Avenue, southerly on Victoria Avenue to Slauson Avenue, westerly on Slauson Avenue to Brynhurst Avenue, southerly on Brynhurst Avenue to 59th Street, easterly on 59th Street to Van Ness Avenue, southerly on Van Ness Avenue to 74th Street, easterly on 74th Street to Normandie Avenue, southerly on Normandie Avenue to 88th Street, easterly on 88th Street to Hoover Street, northerly on Hoover Street to 87th Street, easterly on 87th Street to Figueroa Street, southerly on Figueroa Street to 88th Street, easterly on 88th Street to San Pedro Street, northerly on San Pedro Street to 87th Place, easterly on 87th Place to point of beginning.