

ORIGINAL

Decision No. 49161

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of EDWARD T. MOLITOR for certificate )  
of public convenience and necessity )  
to operate a truck line carrying )  
garments on hangers between San )  
Diego and Los Angeles. )

Application No. 34430

Robert H. Molitor for applicant.Preston W. Davis for United Parcel Service,  
interested party.

## O P I N I O N

Edward T. Molitor, doing business as Standard Truck Line, by this application as amended requests authority to establish and operate a highway common carrier service for the transportation of garments and wearing apparel on hangers, and hangers, between Los Angeles, San Diego (including La Jolla), Coronado, El Cajon, La Mesa, Lemon Grove, National City, Chula Vista and Palm City.

A public hearing was held in San Diego on August 18, 1953, before Examiner Chiesa. Oral and documentary evidence having been adduced, the matter was submitted for decision.

For the past several years applicant has operated as a radial highway common carrier, contract carrier and city carrier. His principal place of business is located in San Diego where he maintains a terminal with dock, maintenance and office facilities. He employs four drivers, one mechanic and an office worker. His equipment consists of one tractor, two 35-foot semitrailers equipped with double-decked racks for hanging garments and used for line haul transportation, and two 2-ton van-type trucks used locally. Applicant's principal sources of revenue are from his present garments-on-hangers transportation service between Los Angeles and San Diego,

80 per cent of which is southbound and 20 per cent northbound, and the transportation of air freight, under contract, between San Diego and Burbank, California.

Applicant's financial condition as of August 20, 1953, showed total assets (all tangible except \$607.84) of \$66,068.86, and total liabilities of \$21,513.97, or a net worth of \$44,554.89 represented by capital investment of \$37,448.63 and operating profit of \$7,106.26. For the year ending December 31, 1952, applicant's operating statement showed transportation revenue of \$49,371.39, operating expense of \$37,908.50, or an operating profit, before taxes and proprietor's compensation, of \$11,462.89.

Applicant proposes a daily service, except Sundays and holidays, in each direction, but does not propose a pickup and delivery service in Los Angeles nor a pickup service in the San Diego area except that in San Diego pickups will be made upon notice from shippers, and only if pickup will coincide with delivery schedules. In Los Angeles the pickups and deliveries will be made by the A & B Garment Delivery, a carrier engaged in similar transportation service, from whom applicant rents his terminal facilities. In the San Diego area applicant will provide terminal to store delivery, but draymen or proprietary carriers will perform the service from stores to terminal.

The garments-on-hangers service that applicant is seeking to provide is a specialized and desirable form of transportation utilized by retail dry goods and clothing stores. <sup>(1)</sup> Applicant has developed the business between Los Angeles and San Diego during the

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(1) The service has heretofore been described in prior decisions (Decisions Nos. 35452 and 48808).

past several years. No other carrier is serving in like capacity between said points.

At the hearing the applicant gave testimony concerning his past and present truck carrier operations and he called some seventeen shipper-witnesses, nine by stipulation, who testified in support of the application. They represented the principal clothing and wearing apparel stores in the San Diego area. The evidence is clear that there is a public need for the proposed service between Los Angeles and San Diego and the cities and communities in the San Diego area and we so find.

The record clearly shows that applicant is experienced in the transportation of garments on hangers; that he is financially responsible and has been moderately successful in the operation of his present business; and, that there are no other carriers performing a similar transportation service between the points and places proposed to be served.

The application was not opposed at the hearing and no evidence was offered against the establishment of the proposed transportation service.

Having fully considered the matter we are of the opinion and find that public convenience and necessity require that the proposed service be established, and, therefore, the application will be granted.

Edward T. Molitor 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

A public hearing having been held, the Commission having considered the evidence and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Edward T. Molitor, authorizing him to operate as a highway common carrier, as defined by Section 213 of the Public Utilities Code, for the transportation of garments, clothing and wearing apparel when transported on garment hangers, and merchandise incidental thereto shipped in company therewith in packages weighing not more than eight pounds, between manufacturers, wholesalers and retailers located in Los Angeles, San Diego (including La Jolla), La Mesa, El Cajon, Lemon Grove, National City, Chula Vista, Palm City and Coronado.

(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 and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, Edward T. Molitor shall conduct said highway common carrier operations over and along the following routes:

between Los Angeles and San Diego via  
U. S. Highway 101 or By Pass 101;

between San Diego and other named points  
within San Diego County over all avail-  
able highways, streets or roads.

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

Dated at San Francisco California, this 29<sup>th</sup> day of  
September, 1953.

A. J. [Signature]  
President

Justin J. [Signature]

[Signature]

[Signature]

Commissioners

Harold P. Huls  
Commissioner ..... Being  
necessarily absent, did not participate  
in the disposition of this proceeding.