

ORIGINALDecision No. 49325

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOSEPH L. BONITA, doing business as)
 AVON EXPRESS, for a certificate of) Application No. 33690
 public convenience and necessity to)
 operate as a highway common carrier)
 for the transportation of property.)

Appearances

Donald Murchison for applicant. Warren Biscailuz
 and L. M. Weigel for Pacific Freight Lines and
 Pacific Freight Lines Express; H. J. Bischoff and
John B. Robinson for Southern California Freight
 Lines and Southern California Freight Forwarders;
 Robert W. Walker and Henry M. Moffat for The
 Atchison, Topeka and Santa Fe Railway Company and
 Santa Fe Transportation Company; E. L. H. Bissinger
 for Southern Pacific Company, Pacific Electric
 Railway Company and Pacific Motor Trucking Company;
 Turcotte & Goldsmith by Frank Turcotte for Harry
 Stewart, doing business as Auto Purchasing Agency
 and for Pixley Transportation, protestants.

O P I N I O N

By this application, as amended, Joseph L. Bonita, doing
 business as Avon Express, requests authority to establish and operate
 a certificated highway common carrier service for the transportation
 of a limited number of general commodities ⁽¹⁾ between the described
 Los Angeles area, Pomona, Fullerton, Corona, San Bernardino,
 Riverside, Elsinore, Hemet, Redlands and Indio and intermediate and
 off-route points along the several described routes, principally
 U. S. Highways Nos. 66, 60, 70, 99 and 395 and State Highways Nos. 18,

(1) The amendment to the application, as revised by applicant's
 testimony, lists the commodities as follows: (a) automotive accessor-
 ies, parts, materials, supplies and tools; (b) paint and paint prod-
 ucts; (c) seed, grain, insecticides, fertilizers and garden supplies
 and equipment; (d) farm implements and equipment; (e) pumps, pipe
 and pipe-fittings; (f) crated refrigeration units and accessorial
 parts; (g) crated office furniture; (h) sheet metal products; and
 (i) clay and clay products.

71 and 74, as more particularly set forth in Paragraph III of the amendment to the application.

Public hearings were held in Los Angeles and Riverside. Oral and documentary evidence having been adduced, the matter was submitted for decision.

The record shows that applicant has been operating as a radial highway common carrier since 1945. He also has city carrier and contract carrier permits. He began operations with one small truck in the Riverside area and has since expanded to include service to all points in the so-called "Kite Area" (San Bernardino, Colton, Redlands, Riverside and vicinity) and to Indio, Hemet, Elsinore, Corona, Ontario and Pomona, as well as Los Angeles. His principal source of revenue at present is from shipments out of Los Angeles into said "Kite Area" and from Riverside and San Bernardino to the above named points and other smaller communities along the route necessarily traversed. He maintains a terminal at Pedley, near Riverside, and operates five 1-1/2 ton trucks. His financial condition as of December 31, 1952, showed tangible assets of \$24,445.34 and liabilities of \$7,121.52. Net profit for the year 1952 was \$3,220.86 (Exhibits Nos. 4 and 5).

Documentary and oral evidence presented in behalf of applicant shows, and we find, there is a need for applicant's proposed service for the following commodities: automotive parts, accessories, materials and supplies; paints and paint products, materials and supplies; seed, grain, insecticides and fertilizers; ranch and garden equipment, materials and supplies; pumps; pipe and pipe fittings, and sheet metal products, between the Los Angeles area, as described, Pomona, Upland, Ontario, Riverside, San Bernardino, Redlands, Yucaipa, Banning, Covina, Elsinore, Hemet and intermediate points along and laterally within three miles of the usually traversed routes between

(2) said points. However, the evidence of record does not support applicant's request to serve, as a highway common carrier, points intermediate of the Los Angeles area and Pomona along U. S. Highway 60, nor between the Los Angeles area and Upland along U. S. Highway 66, nor Fullerton, Anaheim, and points east of Banning.

Eighteen shipper or consignee witnesses testified in support of applicant's request. Most of said witnesses have been using applicant's services for several years. Their testimony indicates the applicant renders them a satisfactory service, particularly as to the promptness of pickup and delivery, due, apparently, to applicant's somewhat specialized service which is limited to a few commodities of limited weight transported to and from a restricted area. The equipment which is used is not suitable for heavy shipments. Applicant now operates three schedules into Los Angeles from Pedley, and returns the same day. The following-day deliveries are made from the Pedley dock where shipments are arranged according to destination point and the five trucks are dispatched to serve the respective areas, one along the Perris-Hemet-Elsinore route, one along the Colton-San Bernardino-Redlands-Yucaipa-Banning route, and the three others the Corona, Pomona and Upland areas, Los Angeles bound for the daily pickups there.

The position of the protestants is that there is adequate highway common carrier service available and that they are able and willing to furnish it. Nevertheless the record shows that for a number of years applicant has been satisfactorily serving a substantial portion of the public. Although many of the shipper or consignee witnesses emphasized their need for a late afternoon pickup,

(2) Public need was established by testimony of shipper or consignee witnesses. Character of traffic and principal points served is indicated by Exhibits Nos. 8, 17, 18 and 19.

such special type service is given little weight by the Commission in arriving at its opinion that the public need for applicant's service was established by substantial evidence. Shippers are entitled to a reasonably prompt pickup service, but not always an immediate pickup at any time of day. It is not reasonable to expect that unscheduled pickups be attended to immediately after a telephone call.

The record does not disclose that any of the protestants will suffer any material financial losses by reason of certification of a portion of applicant's present business. On the other hand, the evidence is clear that applicant is an experienced and moderately successful carrier whose services are required by a number of shippers of a limited type of commodities.

The application will be granted in part and denied in part.

Joseph L. Bonita 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.

ORDER

Application having been filed and public hearings having been held in the above-entitled matter, the Commission being fully advised in the premises and 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 Joseph L. Bonita, authorizing him to establish and operate a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of automotive parts, accessories, materials and supplies; paints and paint products, materials and supplies; seed, grain, insecticides and fertilizers; ranch and garden equipment, materials and supplies; pumps, pipe and pipe fittings; and sheet metal products, between the Los Angeles area as hereinafter described, Pomona, Upland, Ontario, Riverside, San Bernardino, Redlands, Yucaipa, Banning, Covina, Elsinore, Hemet, and intermediate points along and laterally within three miles of the routes as hereinafter described, subject to the following restrictions and conditions:

- (a) The Los Angeles area which applicant is authorized to serve is that which is bounded on the west by Western Avenue, on the south by Imperial Highway, on the east by the Los Angeles City limits, and on the north by the Los Angeles City limits and Los Feliz Boulevard.
- (b) Applicant shall not transport any shipment to or from points intermediate of the said described Los Angeles area and Pomona or Upland.

(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, which shall list specifically the commodities to be transported. //
- (c) Subject to the authority of this Commission to change or modify such at any time, Joseph L. Bonita shall conduct said highway common carrier operations over and along the following described routes or any combination thereof.

Between the Los Angeles area and Banning,
California, along U. S. Highways Nos. 66 and 99.

Between the Los Angeles area and Riverside, California, along U. S. Highways Nos. 60 and 70.

Between Riverside, Hemet and Elsinore, along U. S. Highway No. 395 and State Highway No. 74.

Between Riverside, Corona and Ontario, along State Highways Nos. 18 and 71 and Euclid Avenue.

Between Riverside and San Bernardino, along State Highway No. 18.

Between Riverside and Rialto, along County Road via Bloomington.

From junction of U. S. Highway No. 99 and County Road, along County Road to Yucaipa.

(3) That, except as herein authorized, Application No. 33690 be, and it hereby is, denied.

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

Dated at San Francisco, California, this 10th day of November, 1953.

A. Z. [Signature]
 President

Justice J. Cassel

[Signature]

[Signature]

[Signature]
 Commissioners