

ORIGINALDecision No. 49584

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of UNITED PARCEL SERVICE to)
extend service for delivery of)
small packages and parcels to)
additional points in Southern)
California.)

Application No. 34284

Roger Ramsey and Preston Davis, for applicant.
Robert W. Walker and Henry M. Moffat, for The Atchison,
Topeka & Santa Fe Railway Co. and Santa Fe Transporta-
tion Co. and Railway Express Agency, Douglas Brookman,
for Pacific Greyhound Lines, H. J. Bischoff, for
Southern California Freight Lines and Southern Cali-
fornia Freight Forwarders, and Tylee A. Frankenfield,
for Southern California Freight Lines, protestants.

O P I N I O N

United Parcel Service is a California corporation which now conducts operations as a highway common carrier in the delivery of packages for manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors from the Los Angeles metropolitan area, Long Beach and Pasadena, to points in Southern California, generally from Los Angeles north to Santa Barbara, east to the Riverside-Redlands area, and south through San Diego to the Mexican border, pursuant to certificates of public convenience and necessity issued by this Commission.

Authority is requested herein to extend applicant's existing service to Vista and Escondido and all points along and within two miles of either side of the following routes:

Commencing at the intersection of U.S. Highway 101 and State Highway 78 about two miles south of Ocean-side, thence via State Highway 78 to Escondido, thence via U.S. Highway 395 to San Diego.

From Escondido to Solano Beach via unnumbered county road through Rancho Santa Fe.

Public hearings were held before Examiner Syphers on September 29 and 30, October 23 and December 1, 1953, at Los Angeles, on November 2, 1953, at Vista, and on November 3, 1953, at Escondido, on which dates evidence was adduced, and on December 1, 1953, the matter was submitted. It is now ready for decision.

At the hearings applicant presented in support of the application the testimony of 58 shipper witnesses, 47 by actual testimony and 11 by stipulation. These witnesses pointed out that their companies which are shippers and receivers of freight in small packages desire an expedited transportation to the areas to which service is proposed. They discussed the difficulties encountered in the use of parcel post in that the size limitations are too restrictive and that there are too many delays. Likewise, so far as general truck carriers are concerned, the testimony indicated that small packages are not handled as expeditiously as applicant proposes to do. Many of the shipper witnesses testified that their companies were now using applicant in other areas and that the type of service applicant was providing in those other areas was the type of service they need in the areas under consideration.

It was also pointed out that there have been recent restrictions upon the size of packages which may be sent by parcel

post and this has caused the shippers to look for some other method of shipping small packages.

The instant application seeks authority to transport packages weighing not in excess of 100 pounds each. The rates to be charged are those presently in effect in the Southern California territory served by applicant and published in its Local Parcel Tariff, C.R.C. No. 14, now on file with this Commission. At the hearings it was developed that these rates are so designed that the charges of applicant are higher than the prevailing truck line rates when the package weighs 42 pounds or more.

The vice president of applicant company presented testimony to the effect that applicant now is providing service to several hundred large wholesale firms, specializing in a package delivery. The service is overnight and has been carried on by applicant since 1922.

Exhibit 1 is a statement showing the growth of applicant's package delivery from 1930 through June of 1953. The witness testified that at the present time applicant is providing a daily pickup service to 2,564 wholesale customers in the Los Angeles area. Exhibit 2 is a copy of the rules and regulations under which this business is operated. Among other things it discloses that there is a minimum charge of \$5 a week for which the applicant company calls at the wholesaler's place of business each weekday. The rate for package delivery in the Southern California area is 16 cents per package plus 1-3/4 cents for each pound or fraction thereof of its weight. For packages measuring over 84 inches in length and girth combined, the minimum charge will be the charge for a package weighing 50 pounds.

The testimony disclosed that all business is on a prepaid basis and the shipper pays the carrier each week. Exhibit 3 is a copy of a pickup sheet showing the original and the shipper's copy, and Exhibit 4 is a copy of the bill of lading used by applicant. It was testified that this billing system is extremely simplified and as many as twenty deliveries can be made on one pickup sheet. The rates apply to packages and not to classes or commodities of freight, or to mileages hauled.

Exhibit 5 is a set of nine photographs showing terminal and sorting facilities of applicant used in its business. It was testified that the delivery trucks are specially designed panel trucks with special doors and locks which permit the easy handling of small packages. The drivers all wear uniforms and are specifically trained in the hauling of this type of freight. Exhibit 6 is a copy of the proposed tariff which discloses that the consignor must prepay all charges and sets out the other rules proposed to be followed, as well as the rates proposed to be charged. A comparison of the proposed rates with those of the existing parcel post rates was submitted in Exhibit 7 and discloses that applicant's rates are lower in every instance except for one and two pound packages. Exhibit 8 is a statement showing a comparison of the size and weight limitation of applicant's service with parcel post, while Exhibit 9 compares the C.O.D. charges. Exhibit 10 is a rate comparison showing applicant's charges as compared with those of Railway Express, Pacific Greyhound Lines, U.S. Parcel Post, and the minimum rates prescribed for truck carriers in this Commission's minimum rate

tariffs. It should be noted that the applicant's rates are higher than the minimum rates as set forth in Highway Carriers' Tariff No. 2 for packages weighing more than 41 pounds. ✓

An analysis of applicant's handling of wholesale packages by weight brackets was submitted and it shows the following percentages in the indicated weight brackets as of February, 1953:

<u>Weight in Pounds</u>	<u>Percentage</u>
1 - 5	50.6
6 - 15	31.8
16 - 25	10.6
26 - 50	6.3
51 - 70	.6
71 - 100	.1

In connection with the weight of shipments there was considerable testimony to the effect that the bulk of the shipments handled would weigh less than 40 pounds and there was some urging by the protestants that any authority granted should be limited to packages of 40 pounds or less. However, a complete analysis of all of the evidence in this respect discloses that this was not a serious issue in the case inasmuch as applicant's rates for packages of larger than 41 pounds are higher than the rates of existing truck lines and that therefore any business which applicant might receive for these heavier packages would not be received because of any rate advantage.

Exhibits 12, 13 and 14 show the results of a survey which applicant made in the areas concerned and indicate that

there are shippers who would use applicant's service were it available. Exhibit 15 is a statement signed by various businessmen in the vicinity of Vista indicating a desire for applicant's service. This statement was received in evidence as to nine signatures thereon which could be identified with witnesses who actually had testified in this proceeding.

The financial statements of applicant attached to the application indicate that this company is in a sound financial position and able to carry on the proposed service.

The protestants to this application presented testimony as to their present operations. A witness for Southern California Freight Lines testified as to the stations maintained by that company in Southern California, the motor vehicles operated, and the personnel employed. Exhibit 16 is a list of the terminal properties of this company and Exhibits 17 and 19 are lists of the motor vehicle equipment. Exhibit 18 shows the number of personnel employed. A witness for the Santa Fe Transportation Company likewise testified as to the service that company is offering in the area concerned. In general it was the position of the protestants that any authority granted to applicant should be limited to prepaid shipments, should be confined to the authority to transport packages rather than shipments, and should be restricted so as to prevent applicant from lowering rates on heavier packages. It was likewise suggested that applicant should be restricted as to shipments weighing over 50 pounds so that those shipments would not amount to more than five per cent of the total shipments handled.

A consideration of all of the evidence adduced herein leads us to the conclusion and we now find that public convenience and necessity requires the service proposed by applicant subject to the limitations which will hereinafter be set out. The service applicant proposes is merely an extension of its existing service in Southern California and the evidence discloses that it has the necessary equipment and facilities to conduct the proposed service. While there was some contention that the proposed service should be limited to packages weighing less than 40 pounds and again that the proposed service should be restricted so that packages of more than 50 pounds would not comprise more than five per cent of the total number of shipments hauled, we do not believe such restrictions would be in the public interest. Applicant's proposed rates disclose that they will be higher on packages of more than 41 pounds than the existing rates of other truck carriers. If this situation is maintained, there will be no inducement to shippers to use applicant's service for these higher weighted shipments due to lower rates. In the ensuing order applicant will be authorized to transport shipments weighing not in excess of 100 pounds but will be restricted against lowering rates on the heavier shipments. Likewise, applicant will be restricted to the transportation of prepaid shipments and will be required to maintain its rates on a per-package basis.

United Parcel Service 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, the Commission being fully advised in the premises and having found 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 United Parcel Service, authorizing the establishment and operation of a service as a highway common carrier, as that term is defined in Section 213 of the Public Utilities Code, for the transportation of property from the Los Angeles metropolitan area, Long Beach and Pasadena to Vista and Escondido and all points along and within two miles of either side of the following routes:

- (a) Commencing at the intersection of U.S. Highway 101 and State Highway 78 about two miles south of Oceanside, thence via State Highway 78 to Escondido, thence via U.S. Highway 395 to San Diego.
- (b) From Escondido to Solano Beach via unnumbered county road through Rancho Santa Fe.

(2) That the authority granted herein is subject to the following conditions and limitations:

- (a) The service shall be rendered only for manufacturers, manufacturers' agents, wholesalers, jobbers and commercial distributors.

- (b) Packages shall not exceed 100 pounds in weight, 160 inches in length and girth combined, or 10 feet in length.
- (c) Rates shall be maintained on a per-package basis as contrasted with the per-shipment basis employed by general merchandise carriers, and for packages weighing more than 41 pounds, the rates shall not be lowered to a point where they are equal to or lower than the rates for common carriers of freight as prescribed in the minimum tariffs of this Commission unless otherwise ordered by this Commission. ✓

(3) That in providing service pursuant to the authority herein granted, applicant shall comply with and observe 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.

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

Dated at San Francisco, California, this 18th day of January, 1954.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners