

ORIGINAL

Decision No. 50221

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of JOE MACHADO, doing business as )  
MACHADO TRUCKING COMPANY, for a )  
certificate of public convenience )  
and necessity to extend highway )  
common carrier authority for the )  
transportation of property. )

Application No. 34163

Marvin Handler, for applicant.  
Frederick E. Fuhrman, Edward L. H. Bissinger and John H. Gordon, for Southern Pacific Company, Pacific Company, Pacific Electric Railway Company, Pacific Motor Trucking Company and Railway Express Agency; Robert W. Walker, Richard K. Knowlton and Matthew H. Witteman, for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company; H. J. Bischoff, John B. Robinson and J. H. Rhodes, Southern California Freight Lines and Southern California Freight Forwarders; F. Helen Arnesen, for Metro Freight Service; Gordon, Knapp and Gill by Hugh Gordon and Warren H. Biscailuz, for Pacific Freight Lines and Pacific Freight Lines Express; Raymond Tremaine, for C & L Freight Lines, protestants. Glanz and Russell by Theodore W. Russell, for Public Freight System and Public Freight Service; Turcotte & Goldsmith by F. W. Turcotte, for Pixley Transportation Company and Auto Purchasing Agency; R. F. Shackelford, in propria persona, interested parties.

O P I N I O N

By his application, filed March 17, 1953, Joe Machado, doing business as Machado Trucking Company, requests authority to extend his highway common carrier service for the transportation of general commodities<sup>1/</sup> as follows:

1. Between the Los Angeles Territory, as defined in Item 270 Series of Highway Carriers' Tariff No. 2,

<sup>1/</sup> By his application, applicant excluded uncrated household goods, livestock, liquid petroleum products in bulk, explosives, articles of unusual value, fresh fruits and vegetables, and commodities requiring refrigeration.

Upon a stipulation by counsel to further exclude new uncrated radios, televisions, stoves and washing machines the appearance of Pixley Transportation Company as an interested party was withdrawn.

on the one hand, and San Bernardino, Redlands, Riverside and Santa Ana, on the other hand, and all points and places between said points along and within 3 miles of U. S. Highways Nos. 66, 99, 60, 70, 91, 101 and 101 By-Pass, and State Highway No. 19;

2. Between all points and places set forth in Subparagraph (1) above, excluding Los Angeles Territory but including Pasadena;
3. Between Pasadena and points in Los Angeles Territory.

Public hearings were held before Examiner Daly on June 2, 1953, at San Francisco, June 23, 1953, September 17 and 18, 1953, at Los Angeles and June 24 and 25, 1953, at Pomona. The proceeding was submitted on September 18, 1953, upon briefs and the receipt of the late-filed Exhibit No. 41. Said briefs and exhibit have since been received and the matter is now ready for decision.

#### Present and Past Operations

Applicant is presently operating as a highway common carrier for the transportation of general commodities, with certain exceptions, between San Francisco Territory and Los Angeles Territory, serving the intermediate points of Fresno and Bakersfield. He is also authorized to transport canned goods between Richmond and Gilroy and between each of such points, on the one hand, and the Los Angeles Territory, on the other hand.<sup>2/</sup>

Applicant owns and operates approximately sixty-three pieces of equipment. Terminals are maintained at San Francisco, Oakland, San Jose, Fresno, Los Angeles and Pomona. The Los Angeles terminal and the Pomona terminal would be utilized in providing service to the area herein considered. The Los Angeles terminal,

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<sup>2/</sup> The areas embraced within the terms San Francisco and Los Angeles Territories are defined in Appendices "A" and "B" of Decision No. 46643, dated January 8, 1952, on Application No. 31045. San Francisco Territory is as described in Item 270 Series of Highway Carriers' Tariff No. 2. Los Angeles Territory includes most of the area defined as Los Angeles Basin Territory in said Item 270 Series.

which is located near El Monte, was recently constructed and is held pursuant to a 10-year lease agreement. This terminal is in constant contact with applicant's San Jose and Oakland terminals through teletype facilities. It can accommodate approximately twenty vehicles at one time and is open from 7 a.m. to 10 p.m. The Pomona terminal, which was opened in October 1952, is owned by applicant and can accommodate about five units. It is open from 7 a.m. to 8 p.m. and is presently used for the purpose of stationing about six pickup and delivery units. These units are used as route trucks in connection with the northbound certificated operation and the contract operation now being performed in the proposed area. According to applicant the contract operation referred to is performed under approximately twenty written contracts and six or eight oral contracts. This phase of his operations was assertedly commenced at the request of shippers in the Basin Territory who used applicant's certificated service northbound. In addition to wanting the same character of service made available locally, they allegedly found it a convenience to tender as many shipments as possible to one carrier.

Exhibit 8 was introduced for the purpose of showing the relationship of applicant's contract and common carrier operations. Limiting the exhibit to traffic moving under his contract permit in the proposed area and that moving northbound from the Los Angeles Basin Territory under his certificate, the following information is disclosed.

	<u>Contract Carriage</u>		<u>Common Carriage L. A. Basin Northbound</u>	
	<u>Number of Shipments</u>	<u>Average Weight per Shipment</u>	<u>Number of Shipments</u>	<u>Average Weight per Shipment</u>
<u>1952</u>				
October	120	1,432	181	1,991
November	387	1,517	303	1,230
December	461	1,116	327	1,035

	<u>Contract Carriage</u>		<u>Common Carriage L. A. Basin Northbound</u>	
	<u>Number of Shipments</u>	<u>Average Weight per Shipment</u>	<u>Number of Shipments</u>	<u>Average Weight per Shipment</u>
<u>1953</u>				
January	582	696	483	867
February	733	355	523	655
March	1,338	415	673	637
April	1,443	334	563	729

Proposed Service

The proposed service would be substantially the same as that presently rendered as a contract carrier utilizing the existing equipment and facilities. Additional equipment would be acquired if needed. The rates would be the same as those contained in Highway Carriers' Tariff No. 2 and the service would be daily 5 days a week with pickups or deliveries being made on Saturdays upon request. The general offer of service would be overnight with same-day service being provided in some instances. Exhibit 9 indicates total assets in the amount of \$261,061.01 and a net loss for the first three months of 1953 in the amount of \$7,937.97. The loss was attributable to initial terminal expenses.<sup>3/</sup>

Public Witness Testimony

Twenty-five public witnesses testified at Los Angeles and Pomona representing businesses located at such points as Monrovia, Arcadia, Baldwin Park, Pomona, Azusa, Upland, El Monte, Duarte, Whittier, Burbank, and Los Angeles. These witnesses for the most part testified that they initially used applicant's service to the San Francisco Territory and as a result of satisfactory service commenced using him as a permitted carrier between points herein considered. Many stated that they were dissatisfied with the existing certificated carriers because of various reasons, among which were delays in transit, missed pickups or inconvenient

<sup>3/</sup> A report officially filed with this Commission subsequent to the date of submission discloses that applicant realized a profit of \$5,710 for the first three months of 1954. It is anticipated that certain changes in personnel and management will result in a savings of approximately \$2,000 a month.

pickup hours and unsatisfactory claims experience. On cross-examination, however, several stated that they were not familiar with all of the carriers serving the area. This was attributable to the fact that several of the existing carriers were recently authorized to provide service as highway common carriers between various points within the area. A few also stated on cross-examination that they had never requested a daily pickup from the existing carriers.

On the other hand, the same witnesses highly praised applicant's operations because of convenient and dependable pickup service, courteous drivers, overnight transit time and little or no claims experience. Some of the witnesses felt that because of limited dock space it was a convenience to use the same carrier to local points as well as to the San Francisco Territory.

Exhibits Nos. 3, 4, 5 and 6 were introduced through a consulting engineer appearing on behalf of applicant. The exhibits were introduced for the purpose of setting forth the principal factors which affect the general economy of the Los Angeles Basin Territory. They indicate the industrial development in twenty communities within said territory as well as the general industrial growth. They also indicate the economic progress within the metropolitan area of Los Angeles. The exhibits disclose and the Commission is mindful of the fact that the proposed area has experienced a marked growth in population and industrial development since 1940.

Exhibits Nos. 10 and 11 consist of resolutions adopted by the Chambers of Commerce of Whittier and El Monte in support of the application. Exhibit No. 13 contains excerpts taken from the minutes of the Board of Directors of the Monrovia Chamber of Commerce wherein the Board went on record in favor of the granting of the authority sought. The record fails to indicate, however, what attempt if any was made to notify the existing carriers of the Chamber's intention to consider the resolutions prior to the adoption thereof.

C & L Freight Lines, The Atchison, Topeka and Santa Fe Railway Company, Santa Fe Transportation Company, Southern California Freight Lines, Southern California Freight Forwarders, Metro Freight Service, Pacific Freight Lines Express and Pacific Freight Lines introduced evidence in support of their protests. They set forth in detail their terminal facilities, equipment, and the general nature of their services.

The Santa Fe Transportation Company was certificated by Decision No. 43355, dated October 20, 1949, in Application No. 27203. C & L Freight Lines for the most part operates a one-way movement from Los Angeles to points in the Basin Territory, and was certificated by Decision No. 48043, dated December 9, 1952, in Application No. 32480. Southern California Freight Lines was granted more complete rights in the Basin Territory by Decision No. 48380, dated March 24, 1953, in Application No. 32246. Metro Freight Lines, which is restricted to shipments weighing 500 pounds or less, received its authority by Decision No. 48394, dated March 24, 1953, in Application No. 31769.

With the exception of C & L Freight Lines, protestants submitted exhibits reflecting the shipments transported by them between points within the proposed area during the month of June 1953.

	<u>Number of Shipments</u>	<u>Total Weight (Pounds)</u>
A.T.& S.Fe, S.Fe Trans. Co.	2,747	1,102,159
Metro Freight Service	1,686	275,113
Pacific Freight Lines	35,635	16,963,131
So. Cal.	25,302	10,152,179

Upon request applicant gave a specific breakdown of his operations during the month of June 1953. In addition he submitted a similar report covering the month of July 1953. The information

was received as a late-filed exhibit, numbered 41, and disclosed the following:

	<u>Number of Shipments</u>	<u>Total Weight</u>
June 1953	1,016	333,725
July 1953	1,206	478,719

(Most of the shipments weighed less than 500 pounds)

Protestants argue that applicant has developed his present operations in the proposed area by picking and choosing the most profitable type of business. They refer to the higher rated, heavy shipments which are provided a direct pickup and delivery without need for terminal handling. This business, they claim, attracts smaller carriers who provide the shipper with a service characterized as personalized and specialized. It is argued that applicant possesses limited financial ability as well as limited equipment and facilities. If certificated, they contend he would not only fail to provide the specialized service now rendered, but he would fail completely to meet his obligations as a common carrier in the extensive area he seeks to serve.

The record discloses that the proposed area has experienced a marked growth and development in the past ten years. It further discloses that with but few exceptions the existing carriers serving the area received their operating authority within the period since 1949. Based upon the exhibits reflecting the services performed by these carriers during the month of June 1953, it is safe to conclude that their operations are substantial and extensive. Despite that fact, however, many of the witnesses testified that they were unfamiliar with one or another of the existing services. Applicant is presently meeting the need for the type of service expressed in this proceeding. It is not a question of saturating the area with service. Neither is it a matter of certificating a carrier based

upon the detrimental diversion of traffic from another. The proposed area appears to offer increasing opportunity for the existing carriers as well as applicant.

After consideration, the Commission is of the opinion and finds that public convenience and necessity require the granting of the authority sought. ✓

O R D E R

A public hearing having been held, and based upon the evidence adduced therein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Joe Machado authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Act, for the transportation of general commodities, except uncrated household goods, uncrated radios, televisions, stoves and washing machines, livestock, liquid petroleum products in bulk, explosives, articles of unusual value, fresh fruits and vegetables, and commodities requiring refrigeration, as follows:
  - a. Between the Los Angeles Territory as defined in Item 270 Series of Highway Carriers' Tariff No. 2, on the one hand, and San Bernardino, Redlands, Riverside, Santa Ana and all intermediate points on, along and within three miles of U. S. Highways 66, 99, 60, 70, 91, 101, 101 By-Pass and State Highway 19, on the other hand, subject to the restriction that no lateral service shall be performed west of State Highway 19.
  - b. Between all points and places set forth in Sub-paragraph (a) above, excluding Los Angeles Territory but including Pasadena;
  - c. Between Pasadena and points in Los Angeles Territory.



2. That in providing service pursuant to the certificate herein granted, applicant shall comply with the following service regulations:

- a. Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate herein granted.
- b. Within sixty days after the effective date hereof, and on not less than five days' notice to the public, applicant shall file in triplicate and concurrently make effective appropriate tariffs.

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 June, 1954.

[Signature]  
 President  
[Signature]  
[Signature]

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 Commissioners

Commissioner...KENNETH ROUER, being necessarily absent, did not participate in the disposition of this proceeding.