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**ORIGINAL**

Decision No. 50301

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
EDWARD GREEN, doing business as )  
LOS ANGELES CITY EXPRESS, for a )  
certificate of public convenience and )  
necessity authorizing extension of )  
operations as a common carrier for )  
the transportation of property by )  
motor vehicle. )

Application No. 34867

Donald Murchison, for applicant.  
John B. Robinson and Henry Bischoff, for Southern  
California Freight Lines and Southern California  
Freight Forwarders; Bill Campbell and Raymond  
Tremaine, for C. & L. Freight Lines; Gordon,  
Knapp and Gill, by Joseph C. Gill and Volney V.  
Brown, Jr., for Pacific Freight Lines and  
Pacific Freight Lines Express; Robert W. Walker  
and Henry Moffat, by Henry Moffat, for The  
Atchison, Topeka and Santa Fe Railway Company  
and Santa Fe Transportation Company, protestants.  
Turcotte and Goldsmith, by Jack Goldsmith, for Pixley  
Transportation Company, interested party.

O P I N I O N

The original application herein was filed on November 9,  
1953 by Edward Green, an individual doing business as Los Angeles  
City Express. On April 12, 1954, an amendment was filed in which  
it is recited that by Decision No. 49194, dated October 13, 1953  
on Application No. 34375, Edward Green was given authority to  
transfer all his operating rights to Los Angeles City Express, Inc.,  
a California corporation, and it is requested that if a certificate  
of public convenience and necessity be issued it be issued to the  
same corporation.

Edward Green is an individual who was, prior to January 1, 1954, doing business under the name of Los Angeles City Express. Pursuant to permits from this Commission he could operate as a radial highway common carrier, a highway contract carrier and a city carrier. He also had a certificate of public convenience and necessity from this Commission pursuant to which he was entitled to render service as a highway common carrier between Los Angeles City proper and Los Angeles Harbor District at Wilmington and San Pedro.

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By Decision No. 14404, dated December 27, 1924, the Commission found that E. R. Ketchum had the described "grandfather" rights. By Decision No. 33148, dated May 28, 1940, on Application No. 23486, and Decision No. 33921, dated February 18, 1941, the rights were transferred to E. R. Ketchum and Dana Edgar Ketchum. By Decision No. 41553, dated May 4, 1948, on Application No. 29270, the rights were acquired by Edward R. Poole, Sr. By Decision No. 45391, dated February 27, 1951, on Application No. 32076, the rights were acquired by applicant herein.

Applicant's filed tariff purports to show service between Los Angeles proper and Los Angeles Harbor described as follows: Beginning at a point where 13th Place in Long Beach intersects the shoreline of the Pacific Ocean, thence northerly on 13th Place to Ocean Boulevard, easterly on Ocean Boulevard to Cherry Avenue, northerly on Cherry Avenue to Willow Street, westerly on Willow Street to its intersection with the Los Angeles City limits, thence northwesterly and following the corporate boundary of the City of Los Angeles to the intersection of Frampton Avenue and Lomita Boulevard, thence westerly along Lomita Boulevard to its intersection with the western corporate boundary of the City of Los Angeles, thence southerly along said corporate boundary to its intersection with the shore line of the Pacific Ocean at Weymouth Avenue, thence easterly along the shore line of the Pacific Ocean to point of beginning.

Edward Green testified that his certificated rights include the territory shown on Exhibit No. 2 herein, Los Angeles and Los Angeles Harbor Commercial Zone Map issued by Southwestern Motor Tariff Bureau. Included are Pasadena, San Fernando, El Segundo, Hawthorne, Inglewood, Long Beach, Alhambra, South Pasadena and San Marino, among others.

Applicant's only authority, is to serve between Los Angeles proper, on the one hand, and the Los Angeles Harbor at Wilmington and San Pedro, which does not include Long Beach. Such authority cannot be extended by the expedient of filing tariffs. The only extension authorized by law absent a certificate is the three-mile extension of pickup and delivery zones pursuant to Section 1063 of the Public Utilities Code.

By the application herein, as amended, Los Angeles City Express, Inc., hereinafter referred to as applicant, seeks authority to extend its service as a highway common carrier for the transportation of general commodities except uncrated, unpacked, unwrapped household goods, stoves, refrigerators, new furniture, electrical or gas appliances, livestock, commodities requiring special equipment, commodities in bulk, articles of extraordinary value, dangerous explosives, and commodities injurious or contaminating to other lading, between the points and over the routes as follows:

(A) Between the Los Angeles area, described as that territory bounded on the north by the city limits of Los Angeles and Foothill Boulevard; on the east by Huntington Drive, Atlantic Boulevard, Telegraph Road, the San Gabriel River and the Los Angeles County Lines; on the south and west by the Pacific Ocean and the Los Angeles City limits, on the one hand, and certain cities in the County of Orange, namely, Anaheim, Brea, Buena Park, Corona Del Mar, Costa Mesa, Cypress, El Toro, Fullerton, Garden Grove, Huntington Beach, La Habra, Los Alamitos, Midway City, Newport Beach, Laguna Beach, Placentia, Yorba Linda, Orange, Santa Ana, Tustin, West Fullerton, and Westminster, on the other hand;

(B) Between the Los Angeles area hereinbefore described, on the one hand, and certain points and places in the County of Riverside, namely Arlington, Banning, Beaumont, Corona, Elsinore, Hemet, Highgrove, March Field, Mira Loma, Riverside and West Riverside, on the other hand;

(C) Between the Los Angeles area hereinabove described, on the one hand, and certain points and places in the County of San Bernardino, namely, Chino, Colton, Cucamonga, Fontana, Ontario, Redlands, Rialto, San Bernardino, and Upland, on the other hand.

Applicant proposes to use certain highways to render the service <sup>2</sup> and to make lateral departures from said highways and serve all points within a radius of three miles of the highways used.

Public hearings were held in Los Angeles on March 10 and 11, and April 13, 1954. The matter was argued in Los Angeles on June 10, 1954, and submitted. Hearings and argument were before Examiner Rogers. The matter is ready for decision.

Evidence was presented by applicant to show the following:

In 1934 Edward Green started working as a truck driver. In 1936 he went into the trucking business for himself in New York operating between points in New England. In 1948 he sold his interest in the company and came to California. He formed the Los Angeles City Express in 1949 and secured a radial highway common carrier permit, a highway contract carrier permit, and a city carrier permit. He commenced operations in the proposed territory via four routes. <sup>2</sup> Since he acquired his permits, and since January, 1954, he and the successor corporation have been rendering the service herein proposed. On February 27, 1951, he acquired by purchase the highway common carrier operative right hereinbefore mentioned. In 1953, he formed the applicant corporation, of which he is the sole stockholder at present, and transferred all his trucking company assets, including the certificate and trucking equipment, to it. After he

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See Exhibit No. 1 for routes to be used.

acquired the certificate and until the corporation started operations on January 1, 1954, he rendered service pursuant to the certificate. When Edward Green started operations (pursuant to permits) in 1949 he had three trucks. He acquired three more in 1950 and the corporation now has a total of twenty 16-foot trucks, five tractors and five 24 to 28-foot trailers.<sup>3</sup>

In 1949 Edward Green had three inside men, including himself, and three to six drivers. As of March 10, 1954, the applicant had six inside men, including Edward Green, and 24 regular drivers.

Applicant now charges and will continue to charge the rates set forth in Highway Carriers' Tariff No. 2.

The present and proposed service is and will be rendered Mondays through Fridays and other days as traffic demands.

On westbound traffic delivery is to be made in the Los Angeles area the day following pickup in the proposed area.

On eastbound traffic originating in the Los Angeles area applicant gives and will give (1) same day service for shipments destined to any point west of a line through La Verne, Pomona and Santa Ana, provided shipments are picked up before 1 p.m., (2) same day service to all points for shipments picked up before 10 a.m., (3) same day service on all shipments of 4,000 pounds or more picked up before 1 p.m., and (4) not to exceed overnight service on all other shipments eastbound to the proposed service area.

Applicant now has a terminal in Los Angeles and a terminal in Long Beach. If the application is granted and business warrants, applicant will establish a terminal in San Bernardino.

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Exhibit No. 5.

Applicant and its predecessor, Edward Green, have operated and will continue to operate daily via four routes as follows (See Exhibit No. 1.): All traffic (except large shipments) is picked up in Los Angeles and routed over the dock where it is placed in the proper truck to serve the destination point. The shipments are then delivered starting at the point nearest to Los Angeles. When the truck is empty it returns to the Los Angeles dock for pickup work in the Los Angeles area. At present applicant has little or no west-bound movements but will operate in both directions if the certificate is granted. If a San Bernardino terminal is established, applicant will do pickup work with local trucks in San Bernardino and shipments going through this terminal will have two over-the-dock handlings, one in San Bernardino and one in Los Angeles.

Applicant and its predecessor allegedly have been carrying many types of commodities<sup>4</sup> daily from Los Angeles to points in the proposed service area for about 100 shippers, including about 96 regulars. Service is rendered Mondays through Fridays<sup>5</sup> in the area with little or no movement westward. The tonnage hauled, including that to applicant's certificated area, and noncertificated points not involved herein, has increased from 8,200 tons in 1951 to 25,000 tons<sup>6</sup> in 1953.

Applicant's assets, as of February 28, 1954, were valued at \$61,923, including trucks with a depreciated value of \$37,759. Its liabilities on the same date were \$36,745, including an indebtedness of \$22,000 to a friend of Edward Green. This friend, according to Edward Green, will accept stock (to be issued) in this corporation

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<sup>4</sup> Exhibits 10, 11 and 13.

<sup>5</sup> Exhibit 3A.

<sup>6</sup> Exhibit No. 9.

in lieu of cash to settle the indebtedness. Edward Green has personal assets valued at \$105,994 and stated he will assist the corporation to continue in business if help is necessary.

Applicant presented surveys<sup>7</sup> to show the economic changes in the areas involved. The growth of the area south and east of Los Angeles is a known fact of which the Commission will take judicial notice.

Concerning the corporation's reason for filing the application, Edward Green stated "we have here an operation that is being, well, it is an operation that is performing every day without, apparently, any rhyme or reason to it, from the standpoint of certification. It is in one sense of the word a contract operation. In another sense of the word it is a highway common operation. I would like to get the thing clarified so that the Commission can make a ruling on just what it is and issue the appropriate decision and so that in one way, more or less, we would be stabilized and our investment would be secured and we would be stabilized in so far as we knew what we could do in the legal sense of the word."

Applicant called five witnesses in an attempt to show that public convenience and necessity require that it be granted the requested authority. Edward Green had testified that approximately 96 shippers in the Los Angeles area daily use applicant for shipments to the proposed area and that another 10 or 15, on the average,

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Exhibits Nos. 12 and 17

send shipments each day via applicant to the area involved. It should be noted that one of applicant's exhibits shows that on February 22, 1954, about 45 shipments were carried to the proposed area for all but two of its shippers. (Exhibit No. 10, pp 10 and 11.) This is one of applicant's best days according to the exhibit. The evidence does not show whether each shipment was for a different consignor but from the type of commodities listed it would appear that in some instances one consignor made several shipments. In addition, Western Nipple Manufacturing Company may have had one or two shipments. A representative of this company testified that applicant makes daily pickups at the shipper's place of business, but it appears that only about one shipment every other day goes to the proposed territory (Exhibit No. 13). In addition, Stanley Home Products makes numerous shipments daily by applicant to the proposed area. On November 24, 1953, approximately 53 of this company's shipments were carried by applicant into its proposed area (Exhibit No. 11). It thus appears from the evidence that approximately 100 shipments per day are carried eastbound by applicant to the proposed area for not to exceed 50 shippers.

A representative of Stanley Home Products, Inc., located in Los Angeles, and referred to above, testified that this company distributes 150 items including household brushes, cleaning compounds and toilet preparations to dealers located in, among other places, towns and cities in the proposed service area. Shipments are made on Mondays, Tuesdays and Wednesdays to the area and average a total of 6,000 to 10,000 pounds per week. The company pays the



freight on shipments over \$30 in value and wants pickups made by 11:00 a.m. Pickups are made on call and the truck must be at the dock at the time specified by the shipper. This company has been using applicant exclusively to the area involved since one or two months after the shipper started business in June, 1950. Applicant's services are desired and used because it gives overnight and dependable service, causes no excessive damages, the shipper's manager knows most drivers personally, and applicant is a small company.

Stanley Home Products has used Pacific Freight Lines and Southern California Freight Lines and is not complaining about their services. It has no contract with the applicant. This shipper's business in the area involved has doubled since June, 1950, when it started in business.

The warehouse manager for the Solo Cup Company stated that his company distributes paper cups from Los Angeles to cities in the area involved. Shipments are made to one or more points three to four times per month, and total about 15,000 pounds per month. The company pays all freight charges. It wants a daily pickup between 12 noon and 3:30 p.m. (shipments go to areas other than those involved herein) but does not need same-day delivery. This company has used the applicant for about four years. Applicant provides pickup service as soon as and when this company needs service, gives overnight delivery and personalized service. It has had service by Southern California Freight Lines, and Pacific Freight Lines in this area, but the witness stated that these companies have failed to make pickups because they change their help so often. The company is familiar with Santa Fe Transportation Company but objects to the

fact that this carrier wants payment for freight charges, within 24 hours, which causes additional accounting problems.

The company had never used Anaheim Truck and Transfer Company, Public Freight System, or C. and L. Trucking, and has no complaints concerning them.

The company has no contract with applicant.

Corwin Company and Hall Company are two connected companies in Los Angeles with one man in charge of shipping for both. This man testified that daily both ship small household appliances, radios and television sets to highway points in the proposed service area, such shipments averaging a total of 10,000 pounds per month. The companies want pickups made at 5:00 p.m. or later and overnight service. They have used Southern California Freight Lines, Public Freight System, Pacific Freight Lines, Metro Parcel Service and applicant. They can get the desired late pickup only from applicant, which carrier has been used for 2-1/2 years. Claims adjustments are slow with Southern California Freight Lines. Applicant has settled all claims promptly.

Nash-Kelvinator ships daily from Vernon to highway points in the proposed service area. Shipments consist of large appliances such as stoves, refrigerators and freezers. The monthly average totals about 25,000 to 30,000 pounds. The company desires a same-day delivery when the pickup is made in the morning and next-day delivery for pickups made at 4:00 to 4:30 p.m. Applicant has been furnishing satisfactory service and makes daily pickups. The company has had prompt claims settlements from applicant. Other carriers have not

given as satisfactory service. Other carriers used have been Zimmerman, Atlantic, Pacific Freight Lines, Southern California Freight Lines and Santa Fe Transportation Company, but not to the area involved. The witness has been with the Nash-Kelvinator people about one year and selected applicant as a carrier. No other highway common carrier is used to the area involved.

Western Nipple Manufacturing Company (see Exhibit No. 13) manufactures steel nipples and studs which it ships to, among other places, towns in the proposed service area. Shipments run from 200 pounds to 10,000 pounds and average about 1,000 pounds. Applicant has been used exclusively during the past year for shipments to Colton and San Bernardino. It also used Southern California Freight Lines but did not get very good service. On one occasion no pickup was made by Southern California Freight Lines until the next morning. A daily pickup was never requested of Southern California Freight Lines. Southern California Freight Forwarders (Southern California Freight Lines is the underlying carrier for this company which is in reality an express corporation) is used for shipments to La Habra, Santa Ana, Long Beach, Garden Grove, and Santa Fe Springs. From Los Angeles to these points the express corporation gives the company same-day service. Applicant makes a late pickup. The company desires a daily pickup after 2:30 p.m. although it does not have shipments each day. It has never used Pacific Freight Lines, Public Freight System, or Santa Fe Transportation Company. Fleetlines has been used once or twice and the company has no complaints concerning them.

Applicant is a small company, its service is personalized, and the witness knows the drivers. Those are the reasons the applicant is used.

Pacific Freight Lines, Santa Fe Transportation Company, Southern California Freight Lines and C & L Freight Lines, Inc., presented affirmative evidence in opposition to the application.

Pacific Freight Lines

Applicant stipulated that this carrier has authority to serve to, from and between all points applicant seeks to serve. The Commission's records show that this carrier is authorized to carry general commodities.

Pacific Freight Lines has a total of 1,475 pieces of equipment with which it serves from San Francisco, Oakland and Sacramento in the north to the Imperial Valley and San Diego in the east and south. It has, in the proposed service area, (1) a terminal at Los Angeles with 414 pieces of equipment stationed thereat and a personnel force of 799, (2) a terminal at Pomona with 19 pieces of equipment stationed thereat and 17 employees, (3) a terminal at San Bernardino with 34 pieces of equipment and 30 employees, (4) a terminal at San Gabriel with 21 pieces of equipment and 20 employees, and (5) a terminal at Santa Ana with 22 pieces of equipment and 21 employees. The terminals can get additional equipment when needed.

This carrier offers overnight service between Los Angeles and all points applicant proposes to serve.

From June, 1953 to February, 1954, both months inclusive, this carrier hauled an average of 6,240 shipments per month totalling 2,789,892 pounds and requiring 235 trailers from Los Angeles to San Bernardino. In the reverse direction, during the same period, there were an average of only 1,268 shipments per month totalling 530,744 pounds and requiring 165 trailers.

The average load of the trailers eastbound was about 12,000 pounds, while westbound the average load was about 3,300 pounds. Many completely empty trailers are carried westbound, but many of these originate out of state or come directly from San Francisco without going through Los Angeles. Protestant's witness stated that in the past year the weight carried westbound has increased slightly while the weight carried eastbound has decreased slightly. Pacific Freight Lines carries on active solicitation at all times, having made in March, 1954, for example, over 1,000 solicitation calls to shippers. The general traffic manager for this carrier testified that whenever there is a new certificated carrier in an area there is a diversion of traffic from the existing carriers and that several new highway common carriers including Fleetlines, Inc., Public Freight System, and Anaheim Truck and Transfer have been given certificates in this area in the past two or three years. In each instance there was some diversion of the protestant's traffic.

Santa Fe Transportation Company

This carrier is a certificated highway common carrier of general commodities (a subsidiary of The Atchison, Topeka and Santa Fe Railway) with, in the area involved, authority to serve the following points which applicant proposes to serve:

Los Angeles, Anaheim, Arlington, Buena Park, Colton, Corona, Cucamonga, El Toro, Fontana, Fullerton, Highgrove, March Field, Orange, Placentia, Redlands, Rialto, Riverside, San Bernardino, Santa Ana, Tustin, and Upland. It can serve to, from or between each of said points and any other point named. At each of said points the protestant has a telephone, a telegraph, an agent and a station open from 8:00 a.m. to 5:00 p.m. with a few open during the night. It has

349 units of equipment on its system which extends from San Francisco to San Diego. In Los Angeles alone it operates in its pickup service 45 pieces of power equipment plus the freight carrying units. There is a pickup and delivery service at each station listed above in applicant's proposed service area.

From Los Angeles to San Bernardino it operates two services per day, one service being same-day delivery and the other service being overnight. In the opposite direction, two schedules are operated but all service is overnight.

Service in both directions between points other than Los Angeles and San Bernardino is overnight.

The witness for the Santa Fe Transportation Company stated that in his experience whenever an additional carrier is added it diverts some traffic from the existing carriers and that these new carriers concentrate on the best accounts. Santa Fe Transportation Company has had, the witness stated, a systemwide decrease in traffic of about 15 per cent this year over last year for the same months although March this year was a little better than March last year. Sixty-five to seventy per cent of this carrier's traffic in the area is eastbound and about thirty to thirty-five per cent westbound. It requires, the manager said, more westbound traffic to make the operation compensatory.

Southern California Freight Lines

It was stipulated that this carrier serves the entire area proposed to be served by applicant.

In the area involved, it has two terminals in Los Angeles with a total of 608 employees, one in Santa Ana with 16 employees, one in Banning with 5 employees, and one in Colton with 43 employees. It serves from San Francisco on the north to all points

south and east of San Fernando in California and with some service in Arizona. In its total service it has about 862 pieces of equipment. In 1940 it had a total of 273 pieces of equipment.

The president of this corporation testified that the area proposed to be served is one of the most populous areas in the United States; that any one proposing to serve the area needs facilities in excess of those of the applicant; that it would need a large number of vehicles as well as extensive terminal facilities to serve without discrimination; and that applicant and others similarly situated select particular shippers whom they can conveniently serve and ignore the rest. He further testified that in the past seven or eight years the number of shipments per stop that Southern California Freight Lines gets has decreased. This is because, he said, carriers with limited facilities, in order to exist, have to cater to those shippers who have multiple shipments to tender at each stop. The cost to Southern California Freight Lines of shipments of under 1,000 pounds is increasing. Its revenue is not decreasing but it is getting less of the more profitable traffic.

In the past seven or eight years several certificates have been granted in the area but the tonnage and revenue of the protestant have increased due to the tremendous growth of the area.

C. & L. Freight Lines

This carrier received its authority in December, 1952. It can serve the area proposed to be served eastbound, but may only

carry such items as empty containers, rejected commodities, and articles for repair westbound.

It has 13 pieces of equipment including two tractors, three 26 to 35-foot trailers, and 11 bobtail trucks. It has had no complaints concerning lack of equipment and has a hard time to fill its present vehicles. It operates at a small margin of profit and if crippled any more will operate at a loss. Its only terminal is in Los Angeles and has one-way service only (with noted exceptions). In 1950 it operated as a contract carrier. Its tonnage increased from 1950 to 1952 but has not increased since. Since this company was certificated, Machado and Avon Express have been certificated. Fleetlines, and Public Freight System were certificated at about the same time. The existing traffic, the witness said, cannot be spread around any more. Contract carriers take larger shipments, he said, and when certificated take some of the smaller shipments from the existing highway common carriers.

*Paragraph omitted*

This Commission is aware of the tremendous growth in population and industry that has taken place in the proposed service area in the past years, including the period from 1949 when the applicant's predecessor started serving the area, to the present time. The Commission is also aware of the fact that the number of highway common carriers serving the area has increased during the same period, and the evidence presented herein shows that at least some of these carriers have equipment available for both eastbound and westbound traffic. It also shows that the preponderance of the traffic is eastward and that generally the existing carriers have partially loaded or empty equipment moving westward toward Los Angeles from the applicant's proposed service area.

Applicant's shipper witnesses generally had no serious complaints against the existing carriers and have not to any extensive degree attempted to use the existing carriers for a daily pickup



service such as that rendered by the applicant. These shippers like the applicant's services because they are what they characterize as personalized.

We are of the opinion and find that the record does not show that public convenience and necessity require that applicant be given the authority it has requested. The application will be denied.

O R D E R

Application having been filed, public hearings having been held thereon, and the Commission having found that public convenience and necessity do not require that applicant be issued a certificate of public convenience and necessity as requested in this application.

IT IS ORDERED that the application be, and the same hereby is, denied.

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

Dated at San Francisco, California, this 20th day of July, 1954

John E. Mitchell  
President

James F. Caswell

Kenneth Lott

Deane Higgins

Commissioners