

51357

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ARROW PACIFIC DRAYAGE, a California
 corporation, for a certificate of
 public convenience and necessity
 authorizing extension of operations
 as a common carrier for the trans-
 portation of property by motor vehi-
 cle between Los Angeles and vicinity
 on the one hand, and Santa Barbara on
 the other hand, and certain intermedi-
 ate and off-route points.

Application No. 34524

Appearances

Donald Murchison for applicant. Turcotte & Goldsmith, by F. W. Turcotte, and Herman Lewis, for Auto Purchasing Agency; Gordon, Knapp and Gill, by Volney Brown, Jr., for Pacific Freight Lines and Pacific Freight Lines Express; E. L. H. Bissinger for Southern Pacific Company, Pacific Electric Railway Company, Pacific Motor Transport, and Railway Express Agency; J. B. Robinson for Southern California Freight Lines and Southern California Freight Forwarders, protestants.

O P I N I O N

Arrow Pacific Drayage, a California corporation, sometimes known as A.P.D., herein requests a certificate of public convenience and necessity authorizing the transportation of general commodities except live stock, uncrated, unpacked and unwrapped household goods, uncrated new furniture and uncrated stoves and refrigerators, commodities requiring special equipment, commodities in bulk, articles of extraordinary value, dangerous explosives and commodities injurious or contaminating to other lading, between all points and places in the Los Angeles area

which applicant is now authorized to serve and territory within five miles thereof, on the one hand, and, on the other hand, Santa Barbara, serving all intermediate points and places on and along U. S. Highways Nos. 101 and 101 Alternate, including all points and places within five miles of either side of said highways. In addition authority is requested to serve the off-route point of Goleta located approximately nine miles north of Santa Barbara.

Inasmuch as the status of applicant's operating authority is a point in issue in this matter, a review thereof, as disclosed by the Commission's records, is now set out. By Decision No. 39312, dated August 13, 1946, in Application No. 26933, this Commission granted a certificate of public convenience and necessity to one Charles W. Schenk, doing business as Auto Parts Delivery, authorizing the transportation of "automobile accessories, parts, materials, supplies and tools" (as more particularly described in that decision) and "gas and diesel engines and parts" between an area designated as Area "A" in the vicinity of Los Angeles, on the one hand, and, on the other hand, a surrounding area designated as Area "B". This authority was sold to Auto Parts Delivery, Inc., under authority of Decision No. 40433, dated June 24, 1947, in Application No. 28513. By Decision No. 48722, dated June 16, 1953, in Application No. 32166, a certificate of public convenience and necessity was granted to Arrow Pacific Drayage, a California corporation, and the successor in interest of Auto Parts Delivery, Inc., granting applicant authority to extend its operations to the Bakersfield area.

In addition to these certificated authorities, the applicant possesses permits from this Commission as a Radial Highway Common Carrier, No. 19-32039, dated September 24, 1947, as a Highway Contract Carrier, No. 19-32040, dated September 24, 1947, and as a City Carrier, No. 19-39928, dated April 4, 1950.

The applicant has been the subject of two investigations by this Commission inquiring into the question as to whether or not it has exceeded its operating authority. By Decision No. 48717, dated June 16, 1953, in Case No. 5256, this applicant was directed and required to cease and desist any operation as a highway common carrier between Los Angeles, on the one hand, and Paso Robles and intermediate points along U. S. Highway No. 101, on the other hand, and between Los Angeles, on the one hand, and Bakersfield, on the other hand, via U. S. Highway No. 99 "unless and until and to the extent it shall have obtained from the Commission a certificate of public convenience and necessity authorizing such operations." By Decision No. 50138, dated June 7, 1954, in Case No. 5517, this applicant was directed to cease and desist from operating as a highway common carrier between Los Angeles and Goleta and points intermediate thereto along U. S. Highway No. 101 "unless and until said Arrow Pacific Drayage, Inc., shall have obtained from the Public Utilities Commission a certificate of public convenience and necessity therefor."

Public hearings were held in Los Angeles on June 29, 30, July 22, September 14 and October 13, 1954, in Santa Barbara on July 13, and in Ventura on September 13 and 21, 1954, before Examiner Grant E. Syphers. At the last hearing in Los Angeles, the matter was submitted subject to the filing of briefs. Briefs have now been filed and the matter is ready for decision.

At the hearing the applicant, through its president, presented operating testimony describing the background of the company and the experience of its officers in the transportation field. It was testified that applicant proposes a delivery service in the territory concerned and, in connection with the proposal, certain exhibits were presented. Exhibit No. 1 is a map of the entire area involved, while Exhibit No. 2 is a map of the Los Angeles portion of that area. The points proposed to be served are set out on Exhibit No. 3, and photographs of the equipment to be used, as well as a list of the equipment, are contained in Exhibits Nos. 4 to 6. The applicant maintains a terminal in Los Angeles, a description of which is set out in Exhibit No. 7. The financial position of applicant is contained in a balance sheet as of March 31, 1954, Exhibit No. 8, a statement of income and expense for a three-month period ending March 31, 1954, Exhibit No. 9, and a statement showing the cash revenues by year from 1947 to 1953, Exhibit No. 10.

It was testified that applicant had conducted operations in the territory now proposed to be served under authority of its permits. Exhibits Nos. 11 and 11a are lists showing such transportation. However, as a result of Decision No. 50138 this applicant changed its method of operating in the area concerned as of June 23, 1954.

At that time the testimony discloses that applicant made an arrangement with the Meier Transfer Service, a permitted carrier, under the terms of which applicant picked up shipments in the Los Angeles area and Meier performed the line-haul service and made the deliveries at Oxnard, Ventura and Santa Barbara.

The consignors who used this so-called combined service consisted principally of those who previously had used applicant's service. Each of them was contacted by applicant and agreed to the so-called combined service upon the strength of applicant's representations. None of them made any arrangements with Meier. It should be noted that this combined service continued in operation until July 24, 1954, at which time it was discontinued completely. Letters notifying the shippers and consignees of this discontinuance were sent out by applicant and copies of these letters were received in evidence as Exhibits Nos. 12 and 13.

Applicant presented the testimony of twenty-seven shipper witnesses who generally stated that they desired to use applicant's services between the Los Angeles and Santa Barbara areas. Many of them had used these services until June of 1954 and then had used the combined A.P.D.-Meier service until that was discontinued. They testified in substance that the A.P.D. service had proven satisfactory, and in general they preferred it over the other existing carriers in the area. The preference was due to the prompt pickups, dependable service and overnight deliveries which applicant has afforded them, as well as the courteous conduct of its drivers.

In opposition to the instant proposal, testimony was presented by various truck lines who conduct operations in the area. Exhibit No. 14 is a stipulation setting out the operating testimony of Pacific Freight Lines, and in substance points out that carrier operates in the area concerned and believes that the granting of a certificate to applicant would have an adverse effect upon the Pacific Freight Lines' business.

Exhibit No. 15 is a similar stipulation setting out the operating testimony of the Southern Pacific Company, Pacific Electric Railway Company and Pacific Motor Trucking Company. These protestants conduct operations in the territories involved and have sufficient equipment to handle additional traffic.

A specific showing in opposition to the application was made by the Auto Purchasing Agency, a highway common carrier hauling automobile parts between Los Angeles and the territories for which authority is herein requested. A representative of that company presented testimony and exhibits as to its operations. Exhibit No. 16 is a statement showing its truck facilities and the personnel it employs. Exhibit No. 17 is a list of its equipment, and, in this connection, it was testified that the company maintains an active pickup service in Los Angeles and makes overnight deliveries to the northern points. Exhibit No. 18 consists of a balance sheet as of June 30, 1954, and income and expense statements for the first six months of 1953 and 1954 for this protestant company. The opposition of this company was of two types. The first was the contention that it is presently operating in the field and can handle the available business as well as any increased business it may be offered. The second line of opposition was that the applicant was not a fit person to be granted a certificate, inasmuch as applicant had operated in violation of the orders of this Commission in that it had continued to so operate after receiving a cease and desist order. Particularly under attack was the arrangement with Meier Transfer Service, which this protestant contended was nothing more than a subterfuge. It pointed out that all of the arrangements for

the so-called joint hauling of applicant and Meier were made by applicant. The shippers did not have any contact with Meier and in most instances entered into the arrangement because they were doing business with applicant.

The record is conclusive, and we hereby find, that applicant did persistently operate as a highway common carrier in violation of law. The evidence further demonstrates that applicant has not shown that high degree of responsibility in its operations as a carrier which the law demands of a highway common carrier. Therefore, we find from the evidence that applicant's request for a certificate expanding its highway common carrier operations does not find support in the evidence. It is not enough to justify the granting of a certificate that a number of shippers desire the service proposed. Public convenience and necessity comprehend much more than that. Among the several elements of public convenience and necessity is responsibility of an applicant and his sensibility to and observance of his lawful duties. At the very least, applicant has not conducted itself in the recent past in such manner as to warrant this Commission in authorizing it to expand its operations as a highway common carrier. Based upon the record, we find that public convenience and necessity do not justify the granting of the authority herein requested. The application will be denied.

O R D E R

Application as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises and hereby finding that public convenience and necessity do not require the operations as proposed herein,

IT IS ORDERED that the application of Arrow Pacific Drayage, a California corporation, 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 19th day of APRIL, 1955.

Peter E. Mitchell
President

Justin F. Cassel

Paula L. Lister

Maxwell D. Wiley

Commissioners