

ORIGINAL

Decision No. 53562

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
 EDWARD T. MOLITOR for a certificate)
 of public convenience and necessity)
 to operate a truck line carrying air)
 freight to and from airports as a)
 highway common carrier.)

Application No. 37755

Robert H. Molitor for applicant.
Merrill K. Albert for The Atchison, Topeka and
 Santa Fe Railway Company and Santa Fe Trans-
 portation Company; Preston Davis and Roger
Ramsey for United Parcel Service; E. L. H.
Bissinger for Southern Pacific Company and
Pacific Motor Trucking Company; George W.
Boyle for Southern California Freight Lines
 and Southern California Freight Forwarders;
 protestants.

O P I N I O N

By this application, Edward T. Molitor, doing business as Standard Truck Line, seeks authority to transport property by motor vehicle between San Diego, on the one hand, and the Long Beach Municipal Airport, the Los Angeles International Airport, and the Burbank Lockheed Terminal, on the other hand, serving also the intermediate points of Encinitas, Oceanside and San Clemente. The proposed route is U. S. Highway 101. The property proposed to be carried is classified or referred to by carriers and the Civil Aeronautics Administration as air freight.

Applicant now holds a certificate of public convenience and necessity authorizing him to transport garments, clothing and wearing apparel when transported on garment hangers, and merchandise incidental thereto, between manufacturers, wholesalers and retailers

in Los Angeles, San Diego, and other points and places in the vicinity of San Diego as more fully set forth in Decision No. 49161. He also holds permits authorizing the transportation of property as a radial highway common carrier, contract carrier, and city carrier (Permits Nos. 37-3075, 37-3076 and 37-3077, respectively).

A public hearing was held in San Diego before Examiner Mark V. Chiesa. Evidence, oral and documentary, having been adduced the matter was submitted for decision.

Applicant testified that the transportation service he is proposing is for freight moving in interstate commerce via air freight carriers operating at the three named termini. The air freight carriers do not operate in and out of San Diego because of limited operational facilities. Consequently the air carriers hire truckers to perform that part of the transportation service between said airports and San Diego. Applicant has been performing such a service for Slick Airways, Inc., an authorized carrier of freight by air. All shipments applicant proposes to transport are shipments tendered him by Slick Airways, Inc., and said shipments, according to the testimony of the San Diego district manager of Slick Airways, Inc., are on the billing of said air freight carrier and originate or are destined outside the State of California. No intrastate transportation service is performed. Several witnesses testified that they dealt only with Slick Airways, Inc., and that their shipments were consigned to or received from points outside of California. One witness, representing a nationally known air freight forwarder, testified that on rare occasions his company has used applicant's service between Los Angeles and San Diego for a shipment having a prior or subsequent intrastate air movement. Said freight forwarder also uses applicant's service for occasional interstate shipments which originate at or are destined to the San Diego area.

Upon completion of applicant's presentation, protestants renewed a motion to dismiss the application on the ground that the application as well as the evidence shows that no operations subject to the jurisdiction of this Commission are involved. Protestants also moved to strike all the testimony of the several shipper witnesses pertaining to the need for an interstate transportation service such as herein, in part, proposed by applicant.

The Commission having considered the evidence of record, as well as the allegations and statements contained in the application, is of the opinion and finds that applicant is not proposing to operate a transportation service which this Commission certifies, the jurisdiction thereover being confided to the Interstate Commerce Commission. It is concluded, therefore, that protestants' motion to dismiss should be granted. The motion to strike thus becomes moot and a ruling thereon is not deemed necessary.

Applicant's "Motion to Reject Protest" of Pacific Motor Trucking Company, filed by the latter in its own behalf and as lessee of the operating rights of Pacific Freight Lines, is denied. Common carriers who may be affected by the granting of an application for highway common carrier operating rights are privileged to protest. The protestants herein were properly before this Commission.

O R D E R

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED that the application of Edward T. Molitor, Application No. 37755, be and it hereby is dismissed.

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

Dated at San Francisco, California, this 7th day of August, 1956.

John E. Mitchell President
James F. Cincinatti
Thomas J. Doolan
Robert J. ...

Commissioners

Commissioner Ray E. Untereiner being necessarily absent, did not participate in the disposition of this proceeding.