

ORIGINAL

Decision No. 50665

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
NEEDLES-BLYTHE FREIGHT LINES, a)
California corporation, for an in)
lieu certificate of public conven-)
ience and necessity as a highway)
common carrier of general commodi-)
ties between Needles and Blythe,)
California, and certain points in)
Southern California, pursuant to)
Sections 1063-1064 of the California)
Public Utilities Code.)

Application No. 41528

Glanz & Russell, by Arthur H. Glanz and
R. Y. Schureman, for applicant.
Gordon, Knapp, Gill and Hibbert, by Wyman C.
Knapp, for Milne Truck Lines, Inc.,
protestant.

O P I N I O N

Applicant, as a highway common carrier, is authorized to transport general commodities, with exceptions, between San Bernardino, on the one hand, and points on U. S. Highway No. 66 between Ludlow and Needles, both inclusive, on the other hand, and general commodities, with exceptions, and including articles requiring refrigerated service, between Los Angeles and Riverside, on the one hand, and Blythe, and points within 25 miles thereof, on the other hand.

By the application herein, filed on September 29, 1959, applicant seeks to enlarge its authority so it may transport general commodities, including commodities requiring refrigeration,

- a. Between Los Angeles, Riverside and San Bernardino, on the one hand, and points on U. S. Highway No. 66 between Ludlow and Needles, both inclusive, on the other hand.
- b. Between Los Angeles and Riverside, on the one hand, and Blythe, and points within 25 miles thereof, on the other hand.
- c. Between Needles and Blythe, serving all intermediate points on U. S. Highway No. 95 between said points, and, in addition thereto, the off-route point of Earp.

Public hearings on the application were held before Examiner Kent C. Rogers on December 9, 1959 in Needles, and on December 18, 1959 in Los Angeles. Milne Truck Lines, Inc. appeared as a protestant. This company has authority to carry general commodities, with exceptions, between Los Angeles, on the one hand, and Needles and points intermediate to Needles and the United States Army Airport Base Hospital eight miles east of Daggett, on the other hand, via U. S. Highways Nos. 99 and 66.

Applicant was granted its authority in August 1959, when it acquired the assets and operating rights of Claypool & Co., a family partnership, and issued stock, mainly to that partnership, in exchange therefor. The partnership owns or controls businesses in San Bernardino, Los Angeles, Blythe, Needles, Imperial and in Parker, Arizona. The applicant has highway common carrier operating authority between Los Angeles and Riverside, on the one hand, and Blythe, on the other hand, and between San Bernardino and points on U. S. Highway No. 66 between Ludlow and Needles only, but since its inception, and the predecessor company prior thereto, it has been carrying shipments daily between Los Angeles and Needles for the general public. The major portion of the freight carried is for Claypool & Co., for which it carried a daily average of 20,813 pounds

in October 1959. During this same month it carried approximately 298,000 pounds of milk and 9,200 pounds of bakery products between said points.

Applicant owns seven tractors and nine trailers and leases from the partnership two tractors, two trailers and four Thermo King Refrigerator units.

Applicant proposes to provide service on a daily basis between Los Angeles, Riverside and San Bernardino, on the one hand, and Needles, on the other hand. Scheduled arrival in Needles is to be 6:00 a.m. The existing Los Angeles to Blythe schedule arrives in Blythe at midnight. Service between Blythe and Needles and the off-route point of Earp is to be daily on-call service.

Applicant is financially sound, and earned a net income of \$2,917 for the twelve months ending October 31, 1959.

The applicant called shippers or consignees as witnesses. Several desire applicant's proposed service between Blythe and Needles, including the off-route point of Earp. From the record it appears that there is no intrastate highway common carrier serving between these points although the protestant renders such service as an interstate carrier. It presented no facts in opposition to the proposed service.

Upon the evidence of record herein, it appears and we find that public convenience and necessity require that applicant render service as a highway common carrier for the transportation of general commodities, with stated exceptions, between Needles and Blythe, both inclusive, via U. S. Highway No. 95, serving all intermediate points and, in addition thereto, the off-route point of Earp.

Several consignee witnesses in Needles receive merchandise from the Los Angeles Territory. These consignees either receive all of their merchandise by applicant or partly by applicant and partly by the protestant. They want applicant's proposed service, but generally had no objections to the protestant's service.

The protestant has authority to serve between Needles and Los Angeles and has terminals at each point. It renders service between said points five days per week, and starts delivery in Needles at 8:00 a.m. Service is overnight, with some exceptions.

A substantial portion of protestant's revenues in Needles is derived from the parties who appeared in support of the applicant, and receive shipments from Los Angeles. During the first nine months of 1959 protestant was carrying approximately 50 percent of its capacity.

Applicant's main contention is that it transports about 20,000 pounds of freight per day between Los Angeles and Needles for Claypool & Co. and its affiliated companies, and that it needs authority to transport for the general public in order to carry the merchandise economically.

The Commission having considered the entire record, is unable to find that applicant has shown that public convenience and necessity require the establishment of an additional transportation service, as proposed, between Los Angeles and Riverside, on the one hand, and Needles, on the other hand. This portion of the application will, therefore, be denied.

Applicant is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

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

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Needles-Blythe Freight Lines, a corporation, authorizing it to operate as a highway common carrier, as defined by Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

2. That in providing service pursuant to the certificate 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. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.
- b. Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. That the certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Needles-Blythe Freight Lines, which certificates are revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2.b. hereof.

4. That except as herein specifically granted, Application No. 41528 is hereby denied.

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

Dated at San Francisco, California, this 16th day of February, 1960.

[Signature]
President

[Signature]

[Signature]

[Signature]

Theodore J. Jenner
Commissioner

Needles-Blythe Freight Lines, a corporation, by the decision noted in the margin, is authorized to transport general commodities between the following described points:

- (1) Between San Bernardino, on the one hand, and points on U. S. Highway No. 66 between Ludlow and Needles, both inclusive, on the other hand.
- (2) Between Los Angeles and Riverside, on the one hand, and Blythe and points within 25 miles of Blythe, on the other hand.
- (3) Between Needles and Blythe, serving all intermediate points on U. S. Highway No. 95 between said points, and, in addition thereto, the off-route point of Earp.

The authority herein granted does not, except as stated, include the right to serve to, from or between intermediate points.

Applicant shall not transport any shipments of:

- (a) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
- (b) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.

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- (c) Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
- (d) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
- (e) Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- (f) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

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