

ORIGINAL

Decision No. 52742

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
LOS ANGELES CITY EXPRESS, INC., a
California corporation, for a cer-
tificate of public convenience and
necessity, authorizing removal of a
certain restriction under its present
certificate and issuance of an in lieu
certificate.

}
} Application No. 41167
}

Donald Murchison, for applicant.

O P I N I O N

By Decision No. 53089 applicant was authorized to trans-
port general commodities, subject to the usual exceptions,^{1/} (a)
between all points within the Los Angeles Territory as described
in Appendix B thereof,^{2/} (b) between Los Angeles, Inglewood, Haw-
thorne and Pasadena, on the one hand, and Altadena, Arcadia, Mon-
rovia, Azusa, Pomona, Claremont, Ontario, Fontana, Colton, San
Bernardino, Riverside, Redlands, Banning and Corona, on the other
hand, and (c) between Los Angeles and Inglewood, on the one hand,
and Artesia, La Habra, Fullerton, Anaheim, Orange, Santa Ana,

^{1/} Commodities excepted are Used Household Goods, Automobiles, Livestock, those requiring special equipment, dump truck and mixed transit items (see Appendix A, page 2, of Decision No. 53089).

^{2/} The description of said Los Angeles Territory encompasses practically the same area as the Los Angeles Territory as described in Item 270-3 of Minimum Rate Tariff No. 2.

Huntington Beach and Laguna Beach, on the other hand. Applicant is prohibited from serving intermediate points under items (b) and (c) and may not establish through routes and joint rates as to items (a), (b) and (c).

By this application authority is sought to consolidate its present operating authority (1) by consolidating the Los Angeles Territory with the City of Los Angeles area and (2) by consolidating its operations between said areas to the outlying points it is now authorized to serve, as set forth in (a), (b) and (c) hereinabove.

The application is not opposed although one carrier filed a written protest but did not appear at the hearing.

A public hearing was held on December 9, 1959, in Los Angeles before Examiner Mark V. Chiesa. Evidence having been adduced, the matter was submitted for decision.

The evidence of record shows that applicant's proposal would result in an integrated operation of the points and places which applicant is now authorized to serve and would be in the best interests of the shipping public. For example, applicant may now transport shipments between Los Angeles and named points in the so-called "Kite" area, such as San Bernardino, Riverside and Redlands, etc., and also between Los Angeles and named points in Orange County, such as Fullerton, Anaheim, Santa Ana and others but cannot ship between Santa Ana and San Bernardino without charging a combination of the two rates due to the present restriction as hereinabove set forth. This puts applicant at a disadvantage with other carriers for some of the business of his regular customers which applicant would otherwise have if it could quote the same rates. The

record also shows that applicant's request to consolidate the Los Angeles Territory and the City of Los Angeles area is justified and in the best interests of the shipping public as the City makes up a major portion of the Los Angeles Territory and would result in material advantages to both carrier and shipper. Applicant's president testified that some of applicant's business has been lost to contract and other carriers because of the "double rate" (combination of rates). Two important accounts, one in Gardena and one in San Fernando, were recently lost to competing carriers because of the restriction. It was estimated that as much as a fifty percent decline in business will result unless the relief sought is granted. Shipper witnesses substantiated said testimony.

Applicant maintains terminals in Los Angeles and Banning, employs 56 persons, owns and uses 59 pieces of equipment, and operates five days per week between the hours of 7 a.m. to 7 p.m.

Its financial condition as of June 30, 1959, shows total assets of \$100,484.48, liabilities of \$35,222.65, and a net worth of \$65,261.83, represented by capital stock outstanding, \$50,000, and surplus of \$15,261.83. Net profit for the first six months of the year were \$13,816.28.

The Commission having considered the matter is of the opinion and finds that public convenience and necessity require that applicant be authorized to establish and operate a highway common carrier transportation service as hereinafter set forth. An in lieu certificate will be granted for the purpose of clarification in place of applicant's present operating authority which will be cancelled.

Los Angeles City Express, Inc., 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 in the above-entitled matter, the Commission being fully advised in the premises and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Los Angeles City Express, Inc., 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 as more particularly set forth in Appendix A and Appendix B 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 of a highway common carrier heretofore granted to or acquired by Los Angeles City Express, Inc., which certificates are hereby canceled and revoked. Said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 29th day of February, 1960.

President

[Signature]

Commissioners

[Signature]

[Signature]

[Signature]

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

