

Decision No. 62907**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 DRAYAGE, INC., a corporation, for a
 certificate of public convenience
 and necessity as a highway common
 carrier of commodities generally
 between all points in the Los
 Angeles Basin Territory, pursuant
 to Sections 1063-1064 of the
 California Public Utilities Code.

Application No. 43249
 (Filed March 20, 1961)

Russell & Schureman, by Theodore W. Russell and
William R. Pippin, for applicant.
Donald Murchison, for Intercity Truck & Delivery
 Service, Inc., and Los Angeles City Express,
 Inc.; Ivan McWhinney, for Atlantic Transfer Co.;
Graham James & Rolph, by Leo J. Vander Lans and
Boris H. Lakusta, for California Cartage Co.,
 California Motor Express, Ltd., and California
 Motor Transport Co., Ltd., Boulevard Transporta-
 tion Co., Delta Lines, Inc., Interlines Motor
 Express, Merchants Express of California, Oregon-
 Nevada-California Fast Freight and Southern Cali-
 fornia Freight Lines, Pacific Motor Trucking Co.,
 Shippers Express, Sterling Transit Co., Inc.,
 Valley Express Co. and Valley Motor Lines, Inc.,
 and Willig Freight Lines, protestants.
Kenneth A. Johnson, for City of San Bernardino,
 interested party.

O P I N I O N

Drayage, Inc., is a California corporation that is at
 present engaged in the business of transporting property by motor
 vehicles as a Highway Contract Carrier and City Carrier. Its
 principal business at the present time is the pickup and delivery
 of air freight. By this application authority is sought to trans-
 port general commodities, subject to the usual exceptions, between

all points and places within a described Los Angeles Basin area. The application is protested by the highway common carriers listed in the appearances.

Public hearings were held in Los Angeles on May 17, 18, and 19 and June 16, 1961, before Commissioner George G. Grover and Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced, and briefs having been filed and considered, the matter is ready for decision.

The Commission makes its findings of fact and conclusions of law as hereinafter set forth.

Applicant commenced operations in May of 1961, having acquired the Highway Contract Carrier and City Carrier permits by purchase, said permits having been originally issued on August 7, 1959.

Applicant's financial condition as of February 28, 1961, was as follows:

Total Assets	\$14,071.81	
Total Liabilities	<u>27,616.08</u>	
Net Worth (Deficit)		(\$13,544.27)
Represented by:		
Capital Stock Outstanding	\$ 750.00	
Operating Deficit	<u>(\$14,294.27)</u>	
Surplus Deficit		(\$13,544.27)

(Red Figure)

Its net operating loss for the two months ending February 28, 1961, was \$4,971.02. It was testified by applicant's president, who is also president of Shine-Phillips, Inc., a corporation which owns 60% of the outstanding shares of applicant, and is also operating as a permitted carrier in the Los Angeles basin

area, that the latter corporation has heretofore advanced to applicant approximately \$8,000 and is willing to advance an additional \$15,000 within the next twelve months. The financial condition of Shine-Phillips, Inc. (Exhibit No. 3) indicates that it could advance said additional sum.

Applicant's place of business is located at 5625 Sunset Boulevard and Shine-Phillips, Inc., is located at 5639 Sunset Boulevard in Los Angeles. Applicant owns five panel-type trucks and leases three similar trucks from Shine-Phillips, Inc. Its gross operating revenue for the first two months of 1961 was \$8,436.40. Approximately 85% of applicant's business consists of the transportation of shipments which have either a prior or subsequent movement by air and are destined to or originate from points outside of the State of California. The remaining volume is made up of approximately equal parts of intrastate air freight (7½%), and contract or city freight (7½%). The record shows that applicant in the short time that it has been operating has been specializing in the transportation of less-truckload shipments to and from the Los Angeles International Airport or other nearby airports.

It is proposed to serve the basin area six days per week by operating between one and three schedules per day depending on the location of point to be served, the nearest points receiving the most frequent service, three schedules per day, and the outlying area one schedule per day. An additional so-called "expedited" or "exclusive use of vehicle service" is also proposed at premium rates.

Eight shipper witnesses testified in support of the application. One operated an outlet store in San Bernardino. He stated that the present overnight truck service is satisfactory, but that he wants a "personal" service. He has little use for applicant's "exclusive use of vehicle service" at extra cost and the proposed same-day service would not benefit him as he would have to call in by 8:30 a.m., which would be too early. The next witness was an employee of a freight forwarder and custom house broker located in Los Angeles whose need, if any, for additional trucking service is in connection with foreign shipments or water shipments to ports, such as New York, New Orleans and Houston, which require custom house clearance. The testimony of this witness indicates very little need for shipments between points within the Los Angeles basin. This company has been in business for many years and has been receiving reasonably adequate trucking service with only occasional cause for complaint. It also desires a special personalized pickup and delivery service. The third witness was employed by a rental coverall and uniform supply company situated in the City of Los Angeles with plants in Riverside and San Diego. The testimony shows that this company makes extensive use of its own trucking equipment and that only occasionally would it require the services of for-hire carriers. Another witness was a portrait photographer whose business is in Hollywood. He ships colored portraits, photographs, and some oil paintings and now uses airmail service for at least 75 percent of his shipments. He need is twice weekly in the basin area for

shipments of 10 to 30 pounds. He desires applicant's services, in part, for anticipated future business, a large portion of which would be in foreign or interstate commerce. This witness emphasized a need for one carrier to perform his intrastate and interstate transportation. Applicant could only partially comply on the basis of the highway common carrier service herein proposed. On the other hand, applicant could provide all of this shipper's intrastate needs as a highway contract carrier. Another witness testified that his company, a supplier of machine tools and abrasives, has need for applicant's service as a supplement to shipments now transported by package carriers such as United Parcel Service and that he is satisfied with the service he is now getting. He has not tried several of the protesting carriers who are now authorized to render him a service as highway common carriers. His shipments are daily to points in the basin and usually vary from two pounds to 100 pounds. His place of business is next door to that of applicant. The sixth witness is in the auto wrecking business in San Bernardino. Approximately once a week he receives shipments, consisting of gears, wheels, hubs, and other parts from Pico Rivera, in particular, and also from Los Angeles. He permits the shipper to choose the carrier, although he pays the freight. Once or twice a month he would need same-day delivery. Overnight delivery is otherwise adequate. Several trucking firms are now making generally satisfactory deliveries to his place of business. The next witness was an independent motion picture production supervisor and sometimes producer located in Culver City. His needs pertain to occasional movements of equipment, supplies and persons to "locations". He has been using

Shine-Phillips, Inc., and Teal Brothers for this purpose and would continue to use those services. His need is for occasional "expedited" service such as same-day service or "exclusive use of vehicle" service. Otherwise, he is satisfied with service he has been receiving. This witness was out of the country for eleven months prior to his appearance at the hearing. The last witness was in the aircraft parts and accessories business in Burbank. Ninety percent of his shipments were destined for overseas, and of the remaining 10 percent, five percent were shipments within the Los Angeles Basin area. Two and one-half percent of the latter were shipped via United Parcel Service and the remaining two and one-half percent by other motor carriers, including applicant.

The protestants that presented evidence of their operating authority, financial condition, facilities and services were Boulevard Transportation Co., Intercity Truck and Delivery Service, Inc., Los Angeles City Express, Inc., Pacific Motor Trucking Co., California Cartage Co., Atlantic Transfer Co., California Motor Transport Co., and Southern California Freight Lines. The position of said parties is that public convenience and necessity does not require the certification of additional highway common carriers in the Los Angeles Basin area and particularly the certification of this applicant on the showing made in this proceeding; that there are numerous carriers including several of the protestants who, either singly or collectively, could and would provide a transportation service to meet the needs of applicant's shipper witnesses, if requested to do so; that the certification of applicant, and others, as highway common carriers of general commodities within

the said basin would be adverse to the public interest, would deplete revenues of existing carriers and result in less and/or poorer service and higher rates.

The record is clear that most of applicant's present business consists of the transportation of the lighter less-truckload shipments and that a large proportion of said shipments receive either a prior or subsequent shipment by air in foreign or interstate commerce. The question of whether in some instances, the surface transportation performed by applicant in connection with freight moving by air is incidental to and part of a through continuous movement in interstate commerce, under a through air bill of lading, or is a separate and distinct local movement, need not herein be determined. We note that the type of equipment used and the number of vehicles operated are not indicative of, nor do they lend themselves to, the performance of a general commodity carrier service. The volume and type of applicant's business, present and anticipated, and the inadequate substantiation of a general public need for the proposed service do not justify the granting of this application. Further, the record indicates an intention to specialize more or less in transporting small less-carload shipments, many having foreign or interstate origin or destinations, such as have been carried in the past. The protestants presented substantial evidence of their authority, ability, and readiness to provide an adequate service for the shippers who appeared in behalf of applicant.

Having carefully considered the evidence of record we find that applicant has failed to establish that public convenience and necessity require the proposed service. The application will be denied.

O R D E R

A public hearing having been held, and the Commission being fully advised in the premises,

IT IS ORDERED that Application No. 43249 be and it hereby is denied.

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

Dated at Los Angeles, California, this 17th day of December, 1961.

Geoffrey B. Fox
President

D. Lynn Fox

Fredrick B. Hulschoff

Commissioners

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