

ORIGINAL

Decision No. 67351

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of METROPOLITAN WAREHOUSE COMPANY, a corporation, for an extension of its certificate of public convenience and necessity to operate as a highway common carrier for the transportation of property to, from and between points and places in the Los Angeles Territory.

Application No. 44821
(Filed September 28, 1962)

Donald Murchison, for applicant.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on March 3, 1964. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

Letters of protest to the application were received from several attorneys representing numerous highway common carriers competing with the applicant. After notice of hearing was given to all protestants and interested parties, a letter dated February 11, 1964, was received from R. Y. Schureman, attorney for numerous carriers, stating that he had received assurances from applicant that applicant would amend its application at the time of the hearing to limit the authority applied for to include "either general or special commodities, as the case may be, from the warehouse of the applicant only to

points in the Los Angeles Basin Territory with no service in the reverse direction except for rejected shipments" and applicant would abandon any request for interstate authority, and the attorney for said carrier protestants further stated that based upon such representation their protest was withdrawn and that they would not appear at the hearing.

There were no protestants who appeared at the hearing.

Applicant is a highway common carrier transporting property between all points within the Los Angeles territory under the provisions of Decision No. 53626, dated August 28, 1956, and Decision No. 54585, dated February 25, 1957. Applicant also holds permits issued by this Commission.

Applicant's Evidence

Applicant amended its application so that the proposed service herein will be on call, to be conducted daily except on Saturdays, Sundays and holidays from the applicant's warehouse at 1340-66 East 6th Street, to all points within the Los Angeles Basin Territory with no service in the reverse direction except for returned or rejected shipments.

The applicant is presently a party to Western Motor Tariff Bureau, Inc., Agent, Local Joint and Proportional Freight Tariff No. 17-A, Cal. P.U.C. No. 33, Elmer Ahl, Agent, Series, in the publication of its rate and charges with respect to the commodities which it presently transports between those points which it now serves as a highway common carrier. In connection with the proposed service, applicant proposes to establish rates substantially in conformity

with rates presently published in the above-described tariff. Applicant presently solicits freight from its warehouse customers only and does not accept freight from others but does solicit customers for the warehouse.

A vice president and general manager testified that applicant has been engaged in the warehouse and transportation business for many years and that he has been employed by applicant since 1945. The witness testified that applicant operates day and night at the warehouse in preparation for shipments and that orders received before 5 p.m. go out the next morning and are loaded at night or between 6:30 a.m. and 8:30 a.m., in the morning at which time all of the drivers are out. The witness testified that applicant operates eleven regular runs and nine special runs, has 100 customers in the warehouse and about 50 of these are shippers requiring transportation services.

The witness further testified that he had 16 letters of authority from shippers who requested this extension of service and need the type of expedited service requested herein.

Exhibit No. 1 is a photostat of applicant's operating authority; Exhibit No. 2 is a map of the territory extension requested by applicant; Exhibit No. 3 is a balance sheet, dated December 31, 1963, of applicant's assets and liabilities showing total assets of \$601,818.41 and liabilities of \$280,318.97; Exhibit No. 4 is an income statement, dated December 31, 1963, showing net income for the year of \$130,125.85; Exhibit No. 5 is an equipment list showing 75 pieces of equipment, 47 motorized; Exhibit No. 6 is a list of applicant's

shippers; and Exhibit No. 7 is 16 letters from shippers who support the application and authorize the witness to appear and request this extension of authority.

A shipper witness appeared and testified that he represented Thomas J. Lipton Co. and was receiving excellent service from applicant and supported the proposed extension of service and that the proposed extension would provide more efficient service.

The record herein shows that the applicant is providing a necessary and specialized service for its customers who receive same-day service when they need it. The customers' business and the frequency of service required by them is increasing. They are satisfied with the applicant's service which they are receiving, and want such service continued and extended to the entire Los Angeles Basin Territory. They will use this service if a certificate is granted.

Upon consideration of the evidence, the Commission finds as follows:

1. The limitation to applicant's warehouse is objectionable because it involves the publication of rates available to some shippers but not to others although they may ship the same commodity from the same city. A restriction of this kind (i.e., to the warehouse) is contrary to the fundamental duty of a common carrier and can be tolerated only on a temporary basis to meet an emergency situation.

2. To authorize intercity transportation in one direction only from one structure within an incorporated city and not from other structures or sections of the same city is preferential,

discriminatory and in derogation of a common carrier's duty to serve all members of the shipping public equally.

3. Applicant has not submitted any evidence that an emergency exists or that the service requested is essential for the customers of the warehouse.

4. Applicant has failed to establish that public convenience and necessity require the proposed service. The application will be denied.

O R D E R

IT IS ORDERED that Application No. 44821 is denied.

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

Dated at San Francisco, California, this 10th day of JUNE, 1964.

William W. Bennett
President

[Signature]

George J. Hoover

Fredrick B. Holcomb
Commissioners