

ORIGINAL

Decision No. 70020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Olympic Delivery Service, Inc., a corporation doing business as ROCKET MESSENGER SERVICE, for a certificate of public convenience and necessity to institute a freight forwarding service.

Application No. 47697
(Filed June 21, 1965)
(Amended October 5, 1965)

Donald Murchison, for applicant.
Arthur H. Glanz, for Alco Transportation Company, Boulevard Transportation Company, California Cartage Company, California Motor Transport Co., Delta Lines, Inc., Desert Express, Di Salvo Trucking Company, Oregon-Nevada-California Fast Freight, Pacific Intermountain Express Co., Pacific Motor Trucking Company, Ringsby-Pacific, Ltd., Shippers Express Company, Southern California Freight Lines, Inc., Sterling Transit Co., Inc., T.I.M.E. Freight, Inc., Walkup's Merchants Express and Willig Freight Lines; interested parties.
George L. Hunt, for the Commission staff.

O P I N I O N

After notice to interested parties public hearings on the application were held before Examiner Rogers in Los Angeles on September 29 and 30, 1965. The application was submitted on the latter date. There were no protests. It is ready for decision.

The applicant is a California corporation. It holds statewide permits as a radial highway common carrier and a highway contract carrier, each issued on August 20, 1947. It also holds a permit as a city carrier issued on February 9, 1965, authorizing service as such in each incorporated city in California. ^{1/} By the

^{1/} Applicant has been granted exemption from rates, rules and regulations relative to certain shipments pursuant to Decision No. 56891 and Decision No. 56892 (Exhibits 1 and 2 herein).

herein application it seeks a determination that (1) the Commission has no jurisdiction over the application or (2) if the Commission has jurisdiction, the proposed transportation is exempt from rate regulation, or (3) in the alternative, it be granted a certificate of public convenience and necessity as a freight forwarder (Public Utilities Code Sections 220 and 1010) authorizing it to undertake the collection and shipment of specified commodities, the property of others and, as consignee or otherwise, ship or arrange to ship said property via air carriers or at the air carriers' tariff rates except in the case of emergency or flight cancellation or delay in which case the line haul shall be performed by passenger bus express service at said passenger bus tariff rates.

Applicant is now performing the proposed service and wishes to continue operations. If it receives the requested certificate the following conditions will prevail:

No shipment shall exceed 50 pounds in weight from one consignor to one consignee at one time on one bill of lading.

Service is to be rendered:

(a) Between all points and places located in the Los Angeles Basin Territory as described in Item No. 270 of Minimum Rate Tariff No. 2, on the one hand, and, on the other, points and places located in the San Francisco Territory as described in Item No. 270-3 of Minimum Rate Tariff No. 2.

(b) Between all points and places located in said Los Angeles Basin Territory, on the one hand, and, on the other, all points and places located in the San Diego Territory described as: including that area embraced by an imaginary line starting at the northerly junction of U. S. Highways 101-E and 101-W (4 miles north of La Jolla); thence easterly to Miramar on State Highway 395;

thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

(c) Between all points and places located in the said San Diego Territory on the one hand, and, on the other, all points and places in the said San Francisco Territory.

Applicant will make arrangements with business concerns whereby applicant will pick up or cause to be picked up shipments at the offices of shippers located in the named territories and, following consolidation of said shipments picked up, will transport or arrange for transportation of such consolidated shipments by motor vehicle to airports located in the respective territories. The property will then be transported by air carrier from the origin airports to the destination airports in the named territories where it will be picked up by motor vehicles and, following break-bulk, will be delivered to the places of business of the consignees located in the destination territories.

In performing the service applicant will assume the full responsibility for the safe delivery of the property from the origin point to destination and will charge rates to cover the consolidation, break-bulk, and the transportation services pursuant to tariff rates approved by this Commission. The property will be shipped on applicant's bills of lading and the charges for the line transportation by air or bus will be paid by the applicant to the line carrier.

The service will be on call twenty-four hours per day and will be performed for any person or entity desiring service and paying applicant's rates therefor.

Applicant will use leased terminals in Los Angeles and San Francisco and San Diego operations will be handled out of a driver's home.

Applicant presently handles between 1,000 and 1,500 shipments per day.

Applicant has 49 employees in Los Angeles, 20 in San Francisco and one in San Diego. These employees will be used in the proposed operations.

Applicant provides and proposes to provide an expedited service. As examples, shipments picked up by noon in Los Angeles are and will be delivered by 4:00 p.m. in San Francisco and shipments picked up by 11:00 p.m. in Los Angeles are and will be delivered by 4:00 a.m. in San Francisco.

As of August 31, 1965, applicant had current assets valued at \$27,240 and current liabilities amounting to \$23,426. For the month of August 1965, it made a net profit of \$1,245 on gross revenues amounting to \$43,542.

Four of applicant's customers testified in its behalf. These witnesses have movements of the commodities proposed to be transported by applicant moving between Los Angeles and San Francisco in both directions and between Los Angeles and San Diego in both

directions and use applicant's services. Each of them needs the same day pickup and delivery between the various towns as proposed by applicant and now provided by it, and claimed to be unable to secure such service by other carriers. Each desires that applicant be permitted to continue to render the service as proposed.

Findings

The Commission finds that:

1. Applicant is a California corporation having authority from this Commission to perform services as a carrier of property for compensation throughout the State pursuant to radial highway common carrier, highway contract carrier, and city carrier permits. It has been providing service as proposed by the application continuously since 1947 under said permits.

2. Applicant has leased terminals in Los Angeles and San Francisco, and has an employee in San Diego. It has one or more employees in each of said cities and said employees own light vehicles capable of carrying small shipments. Many of said vehicles are equipped with two-way radios. Pickups and deliveries are made by the employees using said employee-owned vehicles, except for two vehicles in San Francisco leased by applicant from a car leasing company.

3. Applicant is collecting individual shipments of property in either Los Angeles, San Francisco or San Diego and transporting such shipments by motor vehicle to the respective airports in said cities, consolidating said shipments into larger shipments, placing the consolidated shipments on air common carriers for transportation to one of the other destination points, receiving said shipments at the destination point, breaking bulk thereat and thereafter

delivering the individual shipments by motor vehicle. All transportation at the point of origin and at the point of destination is performed by applicant's employees. Transportation by air is at the air common carrier's applicable tariff rates and the air carrier's rates are paid by applicant. Applicant charges and collects from customer for which the service is performed rates for the overall service and includes said air carrier's tariff rates. Said rates have no relation to the air carrier's tariff rates.

4. In the event air transportation cannot be used due to fog or other difficulties applicant places the shipments on common carrier passenger stages and pays the stage company its tariff rates. The method of handling and the charges are apportioned the same as when the long-haul transportation is performed by air carriers.

5. Applicant issues a bill of lading on each shipment showing the overall rates for the transportation. There is no separate rate for the air or passenger stage transportation.

6. Applicant performs and will perform the proposed service for any person or company desiring to use the service and willing to pay the applicable rates therefor.

7. Applicant is a freight forwarder as defined in Section 220 of the Public Utilities Code and public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as such subject to the conditions and restrictions contained in the order herein.

Conclusions

On the foregoing findings the Commission concludes that:

1. Applicant is rendering service as a freight forwarder as defined in Section 220 of the Public Utilities Code using airline

common carriers and passenger stage carriers as its underlying common carriers of its freight shipments for service between the Los Angeles Basin territory, the San Francisco territory and/or the San Diego territory as respectively defined in the order herein.

2. As a freight forwarder applicant is required by law to file tariffs setting forth its rates, rules and regulations applicable to its service for transportation from points of origin to points of destination.

3. The Commission has jurisdiction over the applicant's proposed operations considered herein.

4. The applicant should be granted a certificate of public convenience and necessity as a freight forwarder.

Olympic Delivery Service, 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. 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Olympic Delivery Service, Inc. authorizing it to operate as a freight forwarder as defined in Section 220 of the

Public Utilities Code by air or passenger stage for the transportation of the commodities specified in Appendix A attached hereto and made a part hereof, subject to the weight limitations specified in said appendix, between (a) all points and places located in the Los Angeles Basin Territory as described in Appendix B attached hereto and made a part hereof, on the one hand, and, on the other hand, points and places located in the San Francisco Territory as described in Appendix C attached hereto and made a part hereof; (b) between all points and places located in said Los Angeles Basin Territory, on the one hand, and, on the other hand, all points and places located in the San Diego Territory as described in Appendix D attached hereto and made a part hereof; and (c) between all points and places located in the said San Diego Territory, on the one hand, and, on the other hand, all points and places in the said San Francisco Territory.

2. 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. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.

- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117.

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

Dated at San Francisco, California, this 30th day of NOVEMBER, 1965.

Fredrich B. Hellehoff
President
Paul E. Mitchell
George B. Hoover
William L. Bernard

Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

In process Business Records or documents and/or reproductions thereof;

Totally or partially executed written instruments;

Specially printed or punched forms in single shipments not in excess of 10 lbs. except for inter-plant movements;

In process audit media;

In process Graphic Art Materials,

In process Advertising Materials; In process Communicative Data;

In process Architect and Engineer Plans or Specifications;

Replacement small Engines, Motors, Machines, Mechanical Devices or Parts therefor;

Sample Oils, Petroleum or other than Petroleum, or Products or Derivatives thereof;

Medicines, Medical Compounds, Medical Supplies or Equipment and Parts therefor, in single shipments not in excess of 10 lbs.;

Chemicals or Metals including Compounds thereof in single shipments not in excess of 10 lbs.;

Used Sound or Sounding, Reproducing or Recording Devices or Machines or Repair Parts therefor;

In process Data processing Materials;

Artist Materials, Paints or Supplies, in single shipments not in excess of 10 lbs.;

Checks, Drafts, Securities, Negotiable or Non-negotiable Instruments, Transit Items or Commercial Paper;

Used Radio, Television Electronic or Computing Machines, Equipment, Devices, Tubes and Repair Parts therefor;

Used Scientific Instruments or Repair Parts therefor;

In process Photographs or film;

Press releases, Engraving and Lithographic Plates and Photographic Equipment in single shipments not in excess of 10 lbs.;

Subject to the following restriction:

No shipment shall exceed 50 lbs. in weight from one consignor to one consignee at one time on one bill of lading.

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U. S. Highway No. 99; northwesterly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwestwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwestwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

APPENDIX C TO DECISION NO. 70020

SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwestwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

APPENDIX D TO DECISION NO. 70020

SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94, thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.