

ORIGINAL

Decision No. 72623

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of INDUSTRIAL CARTAGE, INC., a California corporation, for a Certificate of Public Convenience and Necessity to operate as a Highway Common Carrier for the transportation of property by motor vehicle.

Application No. 48046
(Filed November 8, 1965)

Frank Salter, for applicant.
Russell & Schureman, by Carl H. Fritze, for Brake Delivery Service, Burton Truck & Transfer Co., City Transfer, Inc., G & H Transportation, Inc., Griley Security Freight Lines, Robert C. Napier Trucking, Inc., Qwikway Trucking Co., S and M Freight Lines, and Swift Transportation Company; Clyde R. Hoagland, for Redway Truck & Warehouse Co.; Arthur H. Glanz and William F. Clements, 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; protestants.

C P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on February 2 and 3, 1966, and March 8 and 9, 1967, and submitted on March 9, 1967. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The common carriers protesting the application are listed above.

Industrial Cartage, Inc., (applicant) is a highway permit carrier engaged in the transportation of general commodities in California.

Applicant requests authorization to conduct operations as a highway common carrier for the transportation of general commodities between all points and places located in the Los Angeles Basin Territory as described in Item No. 270 of Minimum Rate Tariff No. 2. Applicant proposes that the service will be on call and conducted daily between one or more of the points proposed to be served in the Los Angeles Basin, except Sundays and holidays, with rates to be assessed as provided in Minimum Rate Tariff No. 2, and such other tariffs and rules and regulations applicable to the transportation of the commodities between the points involved.

Certain conditions are alleged to exist which applicant relies upon as follows:

1. There is a substantial increase in population and industry at the points proposed to be served by applicant.
2. There has been an increasing demand made upon applicant for the service proposed.

3. Its present customers require Saturday service as a regular part of their business.

4. There exists a lack of adequate highway common carrier transportation service of the type rendered by applicant from, to and between the points sought to be served.

5. It is capable of affording an efficient highway common carrier service at all of such proposed points, and is able to render a more complete and effective service to members of the shipping public.

6. It is unable to determine what service it may or may not perform under the terms of its said permits. It desires in the future to continue the services which it has performed in the past. Continuation of said service is required by public convenience and necessity.

Applicant's operating witnesses described its facilities located on San Fernando Road in the western part of Sun Valley. There is a building containing 6,000 square feet, three acres in its terminal facilities, and space at dock and doors for loading and unloading of 18 pieces of equipment. It uses 15 motorized units and 5 semitrailers with three units equipped with lift gates. Applicant's witness testified that no highway common carriers have any substantial dock or terminal facilities in the San Fernando Valley.

An accountant for applicant testified that he prepared the statement of financial conditions dated June 30, 1965, attached to the application. Exhibit 1, a statement of financial conditions dated December 31, 1965, shows total assets of \$190,677.93, and for the six-month period, gross sales of \$190,514.42 with gross profit of \$68,761.31. The accountant testified that Exhibit 1 shows

applicant is in a good financial position and that a loan from the Small Business Administration has been paid down to about \$23,000 from \$55,000.

Twenty shipper witnesses testified for applicant, all of whom use its service and said that they find it very beneficial to their businesses. Many of the witnesses testified that they have used and still use other carriers who have terminals located in Los Angeles but that applicant provides better service by quicker response to their needs. Several witnesses testified that they would use their own trucks if they could not get the kind of service provided by applicant.

A summary of the information provided by the shipper witnesses is as follows:

Eighteen of the twenty shippers are located in the San Fernando Valley at a distance of less than a mile up to 15 miles from the applicant's terminal. About half of these shippers require daily pickup and all have some specific problems such as late pickups, need for special equipment, or service on short notice, same-day or overnight delivery, special rush orders, lift gates, flat racks or open or closed equipment. The commodities shipped are described as aircraft engines and parts, fittings for missiles, and missile cases, fragile containers, dated book and magazine material, auto accessories, racing car equipment and parts, plastics, drums, biological products, plastic pipe, fiberglass forms, fabrics, materials to be processed, and metal objects for trailers. All the witnesses testified that applicant responded promptly to their telephone requests for specific solutions to their shipping problems and while many of these witnesses testified that other carriers they used had terminals in central Los Angeles, these carriers did not solve

such problems. Three of the witnesses testified that their business had been moved to the San Fernando Valley recently which caused them some difficulties in obtaining freight transportation.

Witnesses testified for 12 of the protestants that they have all kinds of trucks, many specially equipped, from three to dozens in number touring the San Fernando Valley every day picking up freight and that many are equipped with radio. Protestants conceded that shippers who are situated near the terminals can get better service on special equipment than those who are some distance away. Nearly all of the protestants are engaged in interstate commerce. None of the protestants offered any evidence to show that they have terminal facilities or equipment based in the San Fernando Valley, but all have their truck fleets based in or around the central Los Angeles Basin.

Witnesses for protestants testified that their trucks returning from the San Fernando Valley could handle from 5 percent to 20 percent more freight but they did not show how any of this capacity could be made available to the shippers who testified. Furthermore, protestants did not offer any solutions to the shipping problems described by the shipper witnesses, which are related to the fact that the shippers are near applicant's terminal but far from protestants' terminals and dispatching points which are south and east of the hills separating the two areas. The twelve protestant witnesses who testified in opposition to the application claimed to give overnight service to the San Fernando Valley, as they do for their shippers in greater Los Angeles, but they did not explain how the shippers in the San Fernando Valley could get lift-gate equipment, flat racks, or closed vans on the same day, even though requested after 2:00 p.m. In fact, these witnesses testified that

they have preferred customers to whom this service is furnished but that they could not give it to the San Fernando Valley except on the basis of advance special orders designating exclusive use of equipment.

Witnesses for protestants testified almost entirely to the point that their trucks operating in the San Fernando Valley return with empty space and could carry from an average of 5 percent to 20 percent more freight. However, the evidence is not persuasive that these carriers would gain any substantial amount of freight from the applicant's customers or that such freight would be profitable. There is evidence that the protesting carriers have declined to accept freight in the western portion of the San Fernando Valley and it is reasonable to believe that service by the central Los Angeles carriers to Chatsworth, Sun Valley, and Van Nuys would not improve their profit ratio.

Upon consideration of the evidence, the Commission finds that:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the transportation service hereinafter authorized.
2. The merchants and shippers who testified that they utilize applicant's transportation service do not now have and have not had adequate transportation service available from protestants to satisfy their requirements in an efficient and speedy manner.
3. The merchants and shippers of those certain commodities described in the testimony will be afforded shipping advantages, reduced dock congestion, and more efficient service if applicant is granted authority to transport said commodities over the routes authorized.
4. Granting the application will not adversely affect protestants or result in an impairment of their existing service.

5. The protestants have failed to establish that the services they offer to the San Fernando Valley have adequately met the transportation needs of the San Fernando Valley.

6. The population, business, and industrial growth in the San Fernando Valley in recent years has been tremendous, and this has caused congestion of traffic and transportation to and from the valley through the limited roads connecting the valley with greater Los Angeles, and that this congestion is continuing and is likely to increase.

7. Several of the shippers who moved from greater Los Angeles or West Los Angeles to the San Fernando Valley received unsatisfactory transportation service by reason of their location in the San Fernando Valley.

8. It is necessary to authorize applicant to provide the proposed transportation service in order to enable the shippers supporting the application to obtain the same quality of service which is offered to other shippers in the Los Angeles Basin who are located to the southeast of the mountains separating the two areas.

9. Public convenience and necessity require that applicant be authorized to transport general commodities with certain exceptions in the Los Angeles Basin Territory, as more particularly set forth in the ensuing order.

The Commission concludes that the application should be granted as specified in the ensuing order.

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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Industrial Cartage, Inc., authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A and B attached hereto, and hereby made a part hereof.

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. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D, 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. 80-A.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 20th day of JUNE, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

Industrial Cartage, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, with the exceptions hereinafter noted between all points in the Los Angeles Basin Territory described in Appendix B.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
2. 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.
3. 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.
4. Commodities requiring protection from heat by use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

Issued by California Public Utilities Commission.

Decision No. 72623, Application No. 48046.

8. Portland or similar cements in bulk or in packages,
when loaded substantially to capacity of motor vehicle.
9. High explosives.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 72623, Application No. 48046.

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; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestly 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; southwestly 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.