

ORIGINAL

Decision No. 74043

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of AUTO PURCHASING AGENCY, INC.,
a California corporation, for an
extension of its Certificate of
Public Convenience and Necessity
to operate as a highway common
carrier for the transportation of
property in intrastate and inter-
state and foreign commerce, and
for an In Lieu Certificate of
Public Convenience and Necessity
therefor.

Application No. 49640
(Filed August 25, 1967)

Murchison and Stebbins, by Donald A.
Murchison, for applicant.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on March 19, 1968, on which date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

A notice of filing of application for publication in the Federal Register under Section 206(a)(6) the Interstate Commerce Act, as amended, was forwarded to the Interstate Commerce Commission, Washington, D.C., on August 29, 1967. There are no protests.

Applicant is a highway common carrier presently transporting the following specific commodities: automotive parts and accessories, automotive materials, supplies and tools, automotive gas and diesel engines and parts, and agricultural implements and parts, generally between the Los Angeles metropolitan area known as Zone 1, and El Segundo and other points within the Los Angeles

Basin Territory and also to Greenfield, Wasco, Bakersfield, Taft via U.S. 99 and intermediate points on to Ventura, Santa Barbara, Oxnard, and Carpinteria via 101 and 101A and intermediate points and also to Oceanside, El Cajon, San Diego, La Mesa, and National City via U.S. 101 and 80 and intermediate points, pursuant to Decision No. 46503 in Applications No. 28417 and No. 32444, Decision No. 46868 modifying said Decision No. 46503; Decision No. 57549 in Application No. 40492, and pursuant to Certificate of Registration Docket No. MC-121194 (Sub-No.1) dated November 29, 1963 of the Interstate Commerce Commission. A small portion of applicant's intrastate authority has not yet been registered with the Interstate Commerce Commission.

Applicant requests authorization to extend such highway common carrier operations so as to transport the same specific commodities to all points and places in the Los Angeles Basin Territory, and between said Los Angeles Basin Territory via its present authorized routes to points outside thereof that applicant is already authorized to serve, as referred to above, both in intrastate and interstate and foreign commerce within the present territory served and the proposed new territory.

Applicant proposes to provide the service herein requested on a daily basis Monday through Friday, Sundays and holidays excepted.

Applicant proposes to establish rates substantially in conformity with rates presently published by Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, in the publication of its rates and charges with respect to the commodities which it presently transports intrastate between those points which it now serves as a highway common

carrier, and Freight Tariff No. 107 and 103, MF-ICC No. 16 and 8 with respect to its present interstate operations.

The secretary and treasurer for applicant testified that he is also operations manager, has been one of the owners of the business with his father and brother for his entire adult experience, and has engaged in all phases of the work. He testified that the proposed changes were designed to modernize the scope of the company operations without any increase in commodities hauled, and that a scheduled operation is intended. The company officer further testified that no restrictions are intended for the present service and that the new service is to be conducted Monday through Friday unless otherwise requested, and gave many details concerning the present and proposed operations, the company's financial condition, its equipment and personnel.

The company officer also identified eleven exhibits which were received in evidence:

- Exh. 1. Interstate Commerce Commission
Notice of Filing Motor Carrier
Application in Office of Proceedings
- Exh. 2. Copy of D-46503, December 4, 1957
- Exh. 3. Copy of D-46868, March 17, 1952
- Exh. 4. Copy of D-57549, November 3, 1958
- Exh. 5. Copy of Order Interstate Commerce
Commission
- Exh. 6. Balance Sheet of Applicant,
February 29, 1968
- Exh. 7. Profit & Loss Statement of Applicant,
February 29, 1968
- Exh. 8. Equipment List as of March 12, 1968
- Exh. 9. Photograph of Truck Fleet

Exh. 10. List of companies moved or moving
out of Los Angeles, Zone 1 territory

Exh. 11. Map of Los Angeles, Zone 1 - Los Angeles
Basin Territory with routes and points

Exhibits 6 and 7 show total assets of \$448,857.14 which includes cash and working funds of \$67,215.79, land \$105,290.40, structures \$144,583.85, revenue equipment \$154,969.82, service equipment \$9,311.88, furniture and office equipment \$10,354.57, and miscellaneous equipment \$1,536.32.

Exhibit 6 shows earned surplus of \$232,884.65.

The witness testified that many of the shippers who were moving out of the old Los Angeles Zone 1 territory requested its regular service in the new territory, and that applicant has lost one substantial account due to inability to provide split deliveries in certain points of the Los Angeles Basin Territory which are not in its present territory.

Five shipper witnesses testified in support of the application that they have used the service of applicant in this area for from two to fifteen years, and that it has been rendered with efficiency, has been very satisfactory, and that the change proposed in the service area would add great benefits to them.

The shipper witnesses testified that many early morning deliveries were required when their establishments were not open. The applicant's drivers were supplied with keys to the yard so that their deliveries would be made in the early morning. Applicant provides trustworthy and reliable drivers; applicant also provides special equipment and lift gates for their heavy commodities. The witnesses testified that the proposed new service is needed to enable applicant to keep pace with the industrial movement to points outside of Los Angeles Zone 1, and that the proposed extensions will enable applicant to modernize its routes and operations.

Applicant furnished a list of 12 shipper witnesses who had been requested to appear on the next day, and stated that they would all support the need for this expansion of applicant's territory, and would use the new service.

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 shippers who use applicant's transportation service do not now have and have not had adequate transportation service available to them in the additional territory which efficiently meets their requirements.

3. The shippers of those certain commodities described in the testimony will be afforded shipping advantages, reduced dock congestion, and more efficient service by extension of applicant's authority over the routes herein authorized.

4. The extension of applicant's territory as requested will not adversely affect other carriers or result in an impairment of their existing services.

5. The population, business, and industrial growth in the Los Angeles Basin Territory in recent years has been extensive, and this has caused expansion of traffic and transportation within the Los Angeles Basin Territory in and around Los Angeles Zone 1 so that the extension of applicant's routes will enable applicant to render more efficient service.

6. Several of the shippers who moved from Los Angeles Zone 1 have received unsatisfactory transportation service by reason of their new location and require the extended territory requested by applicant.

7. 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 territory.

8. Public convenience and necessity require that applicant be authorized to transport the special commodities in the Los Angeles Basin Territory, as more particularly set forth in the ensuing order.

9. Public convenience and necessity require that applicant be authorized to engage in interstate or foreign commerce within limits which do not exceed the scope of the intrastate operations now being conducted or authorized to be conducted herein.

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

As applicant has heretofore been authorized to revise its routes on several occasions as set forth in Decisions No. 46503, No. 46868, and No. 57549, and because part of its present authority has not been registered with the Interstate Commerce Commission, it is deemed advisable to restate its certificate in order to clarify its operating authority. Accordingly, a new certificate will be issued which will include all of the applicant's present authority, part of which has been registered with the Interstate Commerce Commission and part of which has not been so registered, and the new authority herein authorized.

Auto Purchasing Agency, Inc., a corporation, 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 Auto Purchasing Agency, 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. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of special commodities heretofore granted to or acquired by Auto Purchasing Agency, Inc., and presently possessed by it, which certificates are superseded effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (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.
- (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 30th day of APRIL, 1968.

John E. Ketchum President

William La Berruete

Augustine

David P. Monsey Commissioner

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Auto Purchasing Agency, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the special commodities described as follows:

Automotive parts and accessories, automotive materials, supplies and tools; automotive gas and diesel engines and parts; and agricultural implements and parts

BETWEEN:

1. All points in the Los Angeles Basin Territory described in Appendix B.
2. All points and places in the Los Angeles Basin Territory described in Appendix B, and Wasco, serving all intermediate points, Gorman and North; with operations between the Los Angeles Basin Territory and Wasco over and along U.S. Highway 99 to Lerdo Highway, Lerdo Highway to Shafter, unnamed highway paralleling right-of-way of Santa Fe Railway Company to Pond Avenue, and Pond Avenue to Wasco.

Santa Barbara, serving Oxnard, Carpinteria and Ventura as intermediate points, with operations between the Los Angeles Basin Territory and Santa Barbara via U.S. 101-A and 101.

San Diego, serving Oceanside as an intermediate and La Mesa as a lateral point, with operations between the Los Angeles Basin Territory and La Mesa via State Highway No. 10 and U.S. Highways Nos. 101-by-pass, 101 and 80.

Issued by California Public Utilities Commission.

Decision No. 74043 Application No. 49640.

3. Bakersfield on the one hand and Taft on the other hand.
4. San Diego on the one hand and National City, El Cajon and the Los Angeles Basin Territory on the other hand.

The operations are to be conducted over and along the following routes:

1. State Highway No. 166, between the intersection of U.S. Highway No. 99 with State Highway No. 166, and Maricopa.
2. U.S. Highway No. 399, between Maricopa and the intersection of U.S. Highway No. 399 with U.S. Highway No. 99 at or near Greenfield.
3. An unnumbered highway, between Shafter and the intersection of an unnumbered highway with U.S. Highway No. 399 at a point approximately 15 miles west of Greenfield.
4. U.S. Highway No. 101, between San Diego and National City.
5. U.S. Highway No. 80, between La Mesa and El Cajon.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 74043, Application No. 49640.

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 shore line of the Pacific Ocean to point of beginning.