

ORIGINAL

Decision No. 88439 JAN 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN CALIFORNIA MOTOR DELIVERY,)
INC., for a certificate of public) Application No. 56662
convenience and necessity authorizing) (Filed August 2, 1976)
operations as a highway common carrier.)

Handler, Baker & Greene, by Daniel W. Baker,
Attorney at Law, for applicant.
Russell, Schureman, Fritze & Hancock, by
Carl H. Fritze, Attorney at Law, for
City Freight Lines, Qwikway Trucking
Co., and Los Angeles City Express, Inc.,
protestants.
Stanley E. Garrett, for the Commission staff.

O P I N I O N

Public hearing in this application was held before
Administrative Law Judge O'Leary at Los Angeles on March 22 and 23,
1977 at which time the matter was continued to a later date.
Additional evidence was presented through stipulations in lieu of
additional days of hearing. The stipulation dated September 22, 1977
is received in evidence as Exhibit 9. The stipulation dated
October 11, 1977 is received in evidence as Exhibit 10.

Applicant holds radial highway common carrier authority.
It also holds a common carrier certificate from the Interstate Commerce
Commission which authorizes the transportation of general commodities
in interstate and foreign commerce between points in the Los Angeles
and Los Angeles Harbor commercial zones.

Applicant here seeks highway common carrier authority in
intrastate, interstate, and foreign commerce for the transportation
of general commodities,

1. Between all points and places in the Los Angeles
Basin Territory, and
2. Between all points and places, inclusively, on
and within 25 miles of points on the following
routes:

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- (a) U.S. Highway 101 between Goleta and Los Angeles;
- (b) Interstate Highway 5 between Los Angeles and San Diego; and
- (c) Interstate Highway 15 and U.S. Highway 395 between Riverside and San Diego.

The sought authority would be restricted against the transportation of shipments which had an immediately prior or will have an immediately subsequent movement by water or a regulated freight forwarder or a common carrier by air or motor.

In performing the service, applicant proposes to use any and all streets, roads, highways, and bridges necessary or convenient for the performance of the service.

The application is protested by City Freight Lines, Quikway Trucking Co., and Los Angeles City Express, Inc.

The proposed transportation will be daily, Monday through Friday. Time in transit for the service will be both same day and overnight, depending upon the time of day the requests for service are received. The rates assessed for the intrastate transportation will be on the same level as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs. The tariffs containing such rates, rules, and regulations will be filed upon receipt of the authority sought herein.

Applicant proposes to perform the service in both intrastate and interstate commerce wholly within the State of California and, therefore, requests that this Commission specifically find that public convenience and necessity require the service in interstate, as well as intrastate, commerce.

Applicant has the following equipment (Exhibit 5): 14 tractors, 3 bobtail trucks, 4 van trailers, 1 flatbed trailer, 1 fork-lift, and 1 service car.

As of December 31, 1976 applicant had assets totaling \$90,047 offset by liabilities totaling \$75,090 and a resultant net worth of \$14,957.

Exhibit 3 is a recapitulation of the number of shipments handled by applicant during the week of October 25 to 31, 1976. It discloses that applicant transported a total of 135 truckload shipments and 367 less than truckload shipments. The president and general manager of applicant testified that Exhibit 3 does not contain any intrastate shipments.

Representatives of five shippers testified in support of the application. Each of the representatives testified concerning the need for applicant's service in interstate commerce. None testified as to a need for the service in intrastate commerce. Exhibit 9 is a stipulation as to the testimony that would have been presented by an additional shipper representative. It discloses that the shipper represented presently utilizes applicant and will utilize the proposed service if authorized. There is no indication as to whether the service used or proposed to be used is in intrastate or interstate commerce.

Section 206(6) of the Interstate Commerce Act provides:

"On and after October 15, 1962 no certificate of public convenience and necessity under this chapter shall be required for operations in interstate or foreign commerce by a common carrier by motor vehicle operating solely within a single State and not controlled by, controlling, or under a common control with any carrier engaged in operations outside such State, if such carrier has obtained from the commission of such State authorized to issue such certificates, a certificate of public convenience and necessity authorizing motor vehicle common carrier operations in intrastate commerce and such certificate recites that it was issued after notice to interested persons through publication in the Federal Register of the filing of the application and of the desire of the applicant also to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority granted, that reasonable opportunity was afforded interested persons to be heard, that the State commission has duly considered the question of the proposed interstate and foreign operations and has found that public convenience and necessity require that the carrier authorized to engage in intrastate operations also be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized to be conducted."

The Commission finds that there is insufficient evidence to find that public convenience and necessity require the proposed service in intrastate commerce.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 56662 is denied.

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

Dated at San Diego, California, this 31st day of JANUARY, 1978.

Robert Batwinich
President

William Agueros

Joseph W. Finkle

Clare J. Deibel
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.