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Decision No. 88854

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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)
convenience and necessity authorizing)
operations as a highway common carrier)

Application No. 56662
(Filed August 2, 1976)

ORDER DENYING REHEARING

Southern California Motor Delivery, Inc. has filed a petition for rehearing of Decision No. 88439 and a motion to reopen the proceedings. The Commission has considered each and every allegation contained therein and is of the opinion that no good cause for granting the requested relief has been shown; therefore,

IT IS ORDERED that the petition for rehearing and reconsideration of Decision No. 88439 and the motion to reopen are denied.

Dated at San Francisco, California, this 16th day of MAY, 1978.

Robert Botwin
President
William Sproule Jr.
Virginia L. Sturgeon
Richard D. Howell
Clair T. Deitch
Commissioners

Decision No. 88439 January 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:

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."

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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 BATINOVICH

President

WILLIAM SYMONS, JR.

RICHARD D. GRAVELLE

CLAIRE T. DEDRICK

Commissioners

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