

Decision No. 37110

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
WESTERN TRUCK LINES, LTD. for a)
certificate of public convenience)
and necessity, authorizing service)
as a common carrier of property by)
motor vehicle between points now)
served on the one hand and Inyokern)
and Inyokern Naval Testing Station,)
as outlined herein.)

Application No. 26139

BY THE COMMISSION:

O P I N I O N

Western Truck Lines, Ltd. now provides a highway common carrier service between Los Angeles and Bishop, and intermediate points, subject to certain restrictions, and other points not involved herein, over U. S. Highway No. 6.

In the above entitled application, applicant requests a certificate, as an extension of its present service, between the intersection of U. S. Highway No. 6 and a county road about four miles westerly of Inyokern, and Inyokern Naval Testing Station situated about nine miles easterly of Inyokern, and the intermediate point of Inyokern. This service will be provided over the county road referred to and an additional route over U. S. Highway No. 395 between its intersection with U. S. Highway No. 6 near the village of Brown, and Inyokern. The authority is sought for the duration of the present war and six months thereafter.

The through rates to be assessed from and to points now served by applicant and the proposed points of Inyokern and Inyokern Naval Testing Station will be predicated on rates prescribed by the Commission in Decision No. 31606, as amended, including the

increase of six per cent in order to maintain the proposed rates at the same level as now published by applicant.

In support of the authority sought applicant alleges in substance that the United States Navy Department now has under construction and partly in operation a Naval Ordnance Testing Station situated about thirteen miles easterly of U. S. Highway No. 6, over which applicant presently operates; that presently there is no highway common carrier service to and from this testing station; that by reason of the magnitude and importance of this project to the war effort there has been a substantial volume of traffic moving to and from the project and that applicant has been transporting a considerable proportion of such traffic as a contract carrier. It is further asserted that the testing station now being partly in operation requires a more frequent and regular service for the transportation of general commodities including dangerous explosives and ordnance supplies than can be performed by applicant under its contract carrier permit.

The application states that applicant has had several requests from the naval officer in charge of the construction work, and the commanding officer at the testing station to establish the proposed service. It has also been requested to provide service to and from the town of Inyokern for which, it is asserted, there is a public need brought about by the development at the Inyokern Naval Testing Station.

It is apparent from the application that presently there is an urgent public need for an extension of applicant's facilities to enable it to serve the Inyokern Naval Testing Station and Inyokern. The duration of the need for such service, however, is not now determinable in that the permanency of the testing station

is obviously subject to navy requirements. In view of this circumstance, it would appear that no time limitation should be placed upon the certificate herein granted. Instead, the matter should be reconsidered upon the filing by applicant, or by a competing carrier, of a supplemental petition raising the question of the need for the continuance of the service after the war emergency is ended. The Commission has received a waiver of protest to the granting of the application from Southern Pacific Company and Pacific Motor Trucking Company which presently serve the town of Inyokern. This appears to be a matter in which a public hearing is not necessary and the application will be granted.

Western Truck Lines, Ltd. is placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State which is not in any respect limited to the number of rights which may be given.

O R D E R

An application having been made as above entitled and it being hereby found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Western Truck Lines, Ltd., a

corporation, authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, between the intersection of U. S. Highway No. 6 and a county road about four miles westerly of Inyokern and the Inyokern Naval Testing Station, and the intermediate point of Inyokern and no other points, as an extension and enlargement of the operative right created by Decision No. 21195, rendered June 10, 1925, in Application No. 14544.

(2) That in providing service pursuant to the foregoing certificate the following service regulations shall be observed:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
2. Applicant shall comply with the provisions of General Order No. 30 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than 1 day's notice to the Commission and the public.
3. Subject to the authority of this Commission to modify them at any time by further order, the routes to be used by applicant in providing service pursuant to the foregoing certificate shall be as follows:

Over an unnumbered county highway between its intersection with U.S. Highway No. 6, approximately four miles westerly of the village of Inyokern, and the Inyokern Naval Testing Station. Over and along U.S. Highway No. 395 between its intersection with U.S. Highway No. 6 near the village of Brown and its intersection with the foregoing described county road at Inyokern.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, June 6, 1944.

[Signature]
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COMMISSIONERS