

ORIGINAL

Decision No. 42150

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BENJAMIN S. GOLDBERG and W. EARL)
GOLDBERG, partners, doing business)
as FILM TRANSPORT CO. OF CAL., for)
the modification and extension of a)
certificate of public convenience)
and necessity authorizing the trans-)
portation of motion picture films)
and accessories between Los Angeles)
and various points in Southern Cali-)
fornia, and for an in-lieu certificate.)

Application No. 30302

O P I N I O N

By this application, Benjamin S. Goldberg and W. Earl Goldberg, copartners, doing business as Film Transport Co. of Cal., seek a new certificate of public convenience and necessity for the purpose of (a) modifying the description of their presently authorized service by identifying the routes over and along which they are authorized to render service in accordance with the designations by which said routes are presently known; (b) extending and enlarging their operative rights as common carriers to points and places and over routes now served by them as a highway contract carrier; and (c) further extending and enlarging said operative rights now held to include an area three miles laterally on either side of present routes as well as on either side of the routes herein sought to be authorized.

Applicants operate service as a highway common carrier in the transportation of motion picture films and accessories under a certificate of public convenience and necessity granted by

Decision No. 27254, dated August 6, 1934, as amended by Decisions Nos. 27565, 36316, and 36854. Said certificate was transferred to applicants pursuant to Decision No. 41978, dated August 24, 1948, on Application No. 29049, and authorizes the transportation of said property over and along the following routes:

1. Main highway from Los Angeles through Whittier, La Habra, Brea, Fullerton, Anaheim, Orange and Santa Ana, thence along main highway to Huntington Beach, thence along Coast Highways to Chula Vista.

2. Along Valley Boulevard via Ontario, Riverside, March Field, thence over Jackrabbit Trail to Banning, thence along State Highway to Indio; provided no service shall be rendered between Los Angeles and March Field.

3. From Los Angeles to Escondido, Elsinore and Corona and to use the highway known as inland highway between Los Angeles and San Diego.

In justification of the proposed extension of service, applicants state that there are no existing common carriers now rendering a comparable service to that which applicants propose. Applicants allege that they presently render service to various points along said extended routes, as highway contract carrier, and propose by this application to continue service to such points as a highway common carrier. The proposed extension will permit applicants to eliminate the contract phase of their operations and to serve all points, within the general area in which they seek authorization, as highway common carriers.

Applicants further allege that there are no other carriers presently rendering the specialized service herein described between the points and places, and over and along the routes herein set forth. The application also states that the service presently rendered by applicants, and the service proposed herein, is of such a specialized nature that railroad and regular highway common carriers cannot adequately perform such service. This specialized service is alleged to be designed to fulfill the particular needs of motion picture theatres, the performance of which service requires experienced and specially trained personnel; and such service involves the making of deliveries and pickups at hours which comply with the schedules of performance maintained by the various theatres served. In the performance of said services, applicants state they use closed van-type vehicles specially adapted to their needs.

Other common carriers, named in the application as serving this territory, have been served with copies thereof and have waived objection to the granting of said application. No modifications of rates are proposed and applicants appear well qualified to perform the service which is in substance merely a continuance of that presently rendered by them either as highway contract or highway common carriers.

The granting of a new certificate of public convenience and necessity to supersede that presently held by applicants, together with the extensions sought, appear to be in the public interest and, therefore, the application will be granted. A public hearing is not required.

Benjamin S. Goldberg and W. Earl Goldberg are hereby 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 therefor having been filed, and it being hereby found as a fact that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Benjamin S. Goldberg and W. Earl Goldberg, copartners, doing business as Film Transport Co. of Cal., authorizing the establishment and operation of a service as a highway common carrier, as that term is defined in Section 2 3/4 of the Public Utilities Act, for the transportation of motion picture films and film accessories, including only projecting machinery and parts therefor, advertising matter, electrical lighting effects, bulbs, advertising slides and tickets, and no other commodities, from the distributors thereof in Los Angeles to motion picture theatres located in service territories in Southern California,

and from said theatres to other theatres in such territories, and back to the distributors in Los Angeles, such service territories being described as follows:

El Toro Service Territory:

All points within three miles on either side of U. S. Highway 101 in and between Whittier and El Toro, and within three miles on either side of unnumbered county highway connecting Santa Ana and Garden Grove, including the portions of said county highway in said Santa Ana and Garden Grove.

San Ysidro Service Territory:

All points within three miles on either side of U. S. Highway 101A and U. S. Highway 101, in and between Huntington Beach and San Ysidro.

March Field Service Territory:

All points within three miles on either side of California Highway 18, in and between Anaheim and Corona; within three miles on either side of California State Highway 71 in and between Corona and Elsinore; within three miles on either side of U. S. Highway 395 in and between Elsinore and Perris; within three miles on either side of California State Highway 74 in and between Perris and Hemet; within three miles on either side of California State Highway 79 and unnumbered County highways in and between Hemet, Moreno and March Field; and within three miles on either side of U. S. Highway 395 in and between March Field and Perris.

Oceanside Service Territory:

All points within three miles on either side of U. S. Highway 80 in and between San Diego and El Cajon; within three miles on either side of unnumbered County highways connecting El Cajon and Ramona including the portions of said highways in said El Cajon and Ramona; within three miles on either side of California State Highway 78 in and between Ramona and Escondido; within three miles on either side of U. S. Highway 395 in and between Escondido and Vista; and within three miles on either side of California State Highway 78 and U. S. Highway 101 in and between Vista and Oceanside.

Brawley Service Territory:

All of the city of San Diego and all points within three miles on either side of U. S. Highway 80 in and between San Diego and El Centro; within three miles on either side of U. S. Highway 99 in and between El Centro and Calexico; within three miles on either side of the unnumbered County highways connecting Calexico, Westmorland, and Holtville including the portions of said highways in said Calexico, Westmorland, and Holtville; and within three miles of U. S. Highway 99 in and between Westmorland, Brawley, and El Centro.

Indio Service Territory:

All points within three miles on either side of U. S. Highway 60 in and between Beaumont and Indio; and within three miles on either side of California State Highway 111 in and between Whitewater and Indio.

(2) That in providing service pursuant to the certificate herein granted the following service regulations shall be complied with:

- (a) Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days after the effective date hereof.
- (b) Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective appropriate tariffs and time schedules within sixty (60) days after the effective date hereof and on not less than five (5) days' notice to the Commission and to the public.
- (c) Subject to the authority of this Commission to change or modify such at any time by further order, applicant shall conduct operations pursuant to the certificate herein granted, over and along the following routes:

ROUTE NO. 1, SERVING EL TORO SERVICE TERRITORY:

From Los Angeles to El Toro over and along U. S. Highway 101, and from Santa Ana to Garden Grove over and along unnumbered County highways.

ROUTE NO. 2, SERVING SAN YSIDRO SERVICE TERRITORY:

From Los Angeles over and along Washington Boulevard, California State Highway 19, U. S. Highway 101A, U. S. Highway 101 to San Ysidro.

ROUTE NO. 3, SERVING MARCH FIELD SERVICE TERRITORY:

From Anaheim over and along California State Highway 71 to Elsinore, over and along U. S. Highway 395 to Perris, along California State Highway 74 to Hemet, over and along California State Highway 79 and unnumbered County highways through Moreno to March Field and over and along U. S. Highway 395 to Perris.

ROUTE NO. 4, SERVING OCEANSIDE SERVICE TERRITORY:

From San Diego over and along U. S. Highway 80 to El Centro, over and along unnumbered County highways to Ramona, over and along California State Highway 78 to Escondido, over and along U. S. Highway 395 through Vista, and over and along U. S. Highway 101 to Oceanside.

ROUTE NO. 5, SERVING BRAWLEY SERVICE TERRITORY:

From San Diego over and along U. S. Highway 80 to El Centro, U. S. Highway 99 to Calexico, over and along unnumbered County highways through Holtville and Calipatria to Westmorland, thence along U. S. Highway 99 through Brawley to El Centro.

ROUTE NO. 6, SERVING INDIO SERVICE TERRITORY:

From Los Angeles over and along U. S. Highway 60 to Indio, and California State Highway 111 from Indio to Whitewater.

In traveling between any points within any of the above-authorized service territories, applicants are authorized to operate their equipment over the most appropriate streets, highways, and roads.

(3) That the foregoing certificate is granted in lieu of, and shall supersede, all highway common carrier certificates heretofore granted by Decisions Nos. 27254, 27565, 36316, and 36854,

which certificates, so superseded, are hereby revoked and annulled to the extent that they confer any operating rights upon applicants on and after the effective date of this order.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26th day of July, 1949.

R. F. Johnson
Arthur J. Craven
Joseph H. [unclear]
Harold A. Hill
Roseette Potter
COMMISSIONERS