

ORIGINAL

Decision No. 42255

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SANTA FE TRANSPORTATION COMPANY for )  
a certificate of public convenience )  
and necessity to operate motor truck )  
service as a highway common carrier )  
of property between San Francisco, )  
Oakland, Alameda, Berkeley, Stockton, )  
Modesto, Fresno, Bakersfield, Los )  
Angeles, Los Angeles Harbor, Long )  
Beach, Pomona, Fontana, Colton, )  
Riverside, San Jacinto, Elsinore, )  
Santa Ana, San Diego, National City, )  
and intermediate points on the lines )  
of The Atchison, Topeka and Santa Fe )  
Railway Company. )

Application No. 27203

(For appearances see Appendix)

O P I N I O N

Santa Fe Transportation Company by the above entitled application seeks a highway common carrier certificate authorizing it to serve generally between points on the rail lines of The Atchison, Topeka & Santa Fe Railway Company. The proposal of the applicant and the evidence of record relative thereto were discussed in considerable detail in Decision No. 43003, issued in connection with this application and the others consolidated therewith.

The Commission in that decision concluded that Santa Fe had made a sufficient showing on the issue of public convenience and necessity to justify the granting of the certificate requested, but expressed the opinion that the question of whether an unrestricted certificate as a highway common carrier should be granted to a rail-controlled operator merited further consideration.

Consequently, oral argument on this question was set for July 13, 1949, before the Commission en banc. It was heard on that date and the issue was thoroughly argued. The Commission has considered fully the question at issue in the light of the arguments and evidence of record and is now ready to render its decision.

The position taken by counsel for certain protestants, and for the trucking interests generally, is that it would be contrary to public policy for the Commission to accord a railroad corporation or subsidiary the right to operate upon the highways. Their contention is that the grant of such a right to a strongly financed railroad might place it at a competitive advantage over the other highway services. They also assert that a railroad should not be authorized to conduct the two types of carrier operations, one competing with the other.

Upon careful consideration of the question of public policy, as applied to the subject matter now before it, the Commission is of the opinion and concludes that neither the Public Utilities Act nor any other applicable provision of law declares or establishes a public policy, which prescribes a standard or requirement for the issuance of a certificate to operate as a highway common carrier different from or other than the standard of public convenience and necessity. A finding of public convenience and necessity of course includes many elements, one of which is the public interest, but the ultimate is public convenience and necessity and the law prescribes no further requirement or standard as a condition precedent to the issuance by the Commission of a certificate to operate as a highway common carrier. The Commission must consider the facts of record with respect to the general

public advantage or disadvantage resulting from the grant of the certificate sought.

The extent of the highway operative right here sought, and the history and operations of The Atchison, Topeka & Santa Fe Railway Company should be borne in mind. Santa Fe is not seeking to serve new points, with one exception which will be mentioned subsequently. It is merely endeavoring to improve existing service on less-carload-traffic by means of motor vehicle. Santa Fe offers to serve to and from stations on the Santa Fe Railway main and branch lines.

Briefly stated Santa Fe seeks the right to serve between San Francisco, Oakland, Alameda, Berkeley, Stockton, Modesto, Fresno, Bakersfield, Los Angeles, Los Angeles Harbor, Long Beach, Pomona, Fontana, Colton, Riverside, San Jacinto, Elsinore, Santa Ana, San Diego, National City and intermediate points on the main or branch lines of its parent railroad. Alameda is served now by rail through an affiliate, the Alameda Belt Line in which Santa Fe has a 50 per cent ownership. Modesto is served by Santa Fe via Modesto and Empire Traction Company. There is no common ownership between the two companies and Modesto is not a Santa Fe rail point. Santa Fe has certain highway common carrier rights in the San Joaquin Valley and in Southern California and these are expressly excepted from the authority now sought.

The Santa Fe Railway has long been a common carrier in this State and for many years has competed actively with the Southern Pacific Company and other transportation agencies for freight business between Northern and Southern California points

and the intermediate territory, despite its circuitous route and other operating disadvantages. To illustrate, traffic destined to Los Angeles from San Francisco is barged across the Bay to Richmond and from there transported by rail over a route which goes to Bakersfield then passes through Barstow and San Bernardino, a route approximately 130 miles longer than the route of Southern Pacific Company and some 200 miles more than the highway route between Los Angeles and San Francisco. Until the Southern Pacific Company instituted service with its overnight merchandise trains and before the advent of large scale truck service between San Francisco and Los Angeles, Santa Fe was able to attract traffic. However, since that time less-carload-freight transported by Santa Fe has declined to the point of insignificance.

Counsel representing trucking interests urge that no certificate should be issued as it would permit dual operations or competition by the railroad with itself. However, should a certificate be granted they ask that it be circumscribed by requiring that all Santa Fe truck traffic receive either a prior or subsequent haul by rail or be restricted from movement by motor vehicle through certain key points. It is contended that it would be contrary to the public interest and would be a fatal blow to the existing truck carriers to permit a rail-controlled operator to engage in unrestricted truck operations.

The record shows that Santa Fe, if it receives the certificate sought, will transport intrastate less-carload-traffic by truck, but will continue to carry carload merchandise by rail. No dual operation or competition with itself would result from such a method of handling. While it might be possible for Santa Fe to

transport less-carload-traffic either by rail or truck, the necessity for speed in transit effectively prevents its use of rail cars if its service is to be competitive with other transportation companies. Likewise, to restrict its truck operations to require a prior or subsequent rail haul, or to impose key point restrictions would have the same effect. An operative right so circumscribed would require at least three handlings en route, making the operation not only slower but more expensive, with greater possibility of damage to merchandise and resultant claims. It is not contrary to public policy in this State to grant an unrestricted truck right to a railroad subsidiary. The Commission has done so before where the facts of record warranted such action.

Santa Fe stated unequivocally that it seeks the within highway common carrier certificate to enable it to augment and improve the existing rail service of its parent company. Such a certificate would permit Santa Fe to accord direct truck service to rail points thus avoiding the necessity of spotting cars at break-bulk points and back-hauling to destination with the consequent delays in transit. Further it would make it unnecessary to engage in the uneconomical operation of partially filled rail or box cars. The Commission has carefully considered whether some appropriate restrictions might be imposed which would permit rendition of such auxiliary and supplemental service and still prevent unlimited and unrelated highway common carrier operations. It is apparent that imposition of restrictions against movement through specified key points, or the requiring of prior or subsequent hauls by rail, as a condition to Santa Fe hauling any shipments by truck would prevent it from effecting the desired service improvements. A sufficient restriction would be to confine its highway operations to less-

carload-traffic moving on rail billing at rail rates and from and to stations on The Atchison, Topeka & Santa Fe Railway. This would bring the operation within the avowed scope and purpose of the application.

The truck operators not subsidiaries of railroad corporations seek to prevent Santa Fe from competing effectively with them for less-carload-traffic. Their position in this respect is understandable, but such self interest should not be confused with the general public interest. These truck carriers apparently fear that if this application is granted the rail carriers will gain a substantial monopoly in the transportation business of this State. There is no basis in the evidence for such apprehension. On the contrary the truck operators are so well established such an eventuality seems most unlikely. The minimum rates established by the Commission for all carriers effectively prevent the use of rate adjustments to gain unfair competitive advantage. As there is no common ownership between Santa Fe and Modesto and Empire Traction Company, Modesto cannot be said to be a Santa Fe rail point. Consequently, authority to serve it by truck will not be granted.

After carefully considering the evidence of record and the briefs and the oral argument presented, the Commission is of the opinion that the inauguration of the service proposed by Santa Fe will afford a better service to the shipping public and will enable Santa Fe to realize substantial economies. The Commission finds that public convenience and necessity require that a certificate be granted to Santa Fe authorizing it to operate as a highway common carrier subject to the limitations specified hereinabove.

O R D E R

Public hearings having been held in the above-entitled proceeding, the matter having been submitted on briefs and thereafter orally argued before the Commission en banc, and the evidence, briefs and oral argument having been fully considered and basing this order upon the record and the conclusions and findings contained in the foregoing opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Santa Fe Transportation Company authorizing it to operate as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of less-carload general commodities, except uncrated household goods and other commodities for which the Commission has prescribed minimum rates in Appendix "A", Decision No. 32629, City Carriers' Tariff No. 3 - Highway Carriers' Tariff No. 4, moving on billing of The Atchison, Topeka & Santa Fe Railway Company at its published tariff rates, between

(a) San Francisco and Los Angeles and all points intermediate thereto on the main and branch lines of The Atchison, Topeka & Santa Fe Railway Company between and including Oakland and Bakersfield and including, also, Alameda, which is served through the Alameda Belt Line, except

- i. Those points between Fresno and Porterville which Santa Fe Transportation Company is now authorized to serve by Decisions Nos. 27234, 31042 and 31882; and
- ii. Points on the branch line from Oil Junction to Oil City.

(b) Los Angeles and Los Angeles Harbor and Long Beach via Inglewood and Redondo Beach serving all points on the main and branch lines of The Atchison, Topeka & Santa Fe Railway Company

between Los Angeles and Wilmington.

(c) Los Angeles and Fontana via Pasadena, serving all points on the lines of The Atchison, Topeka & Santa Fe Railway Company between Los Angeles and Fontana.

(d) Los Angeles and National City, serving all points on the main and branch lines of The Atchison, Topeka & Santa Fe Railway Company between Los Angeles and National City, except

- i. Points on the Fallbrook and Escondido branches which Santa Fe Transportation Company is now authorized to serve by Decisions Nos. 25352 and 28449.

(e) Fullerton and Santa Ana, on the one hand, and Colton, on the other hand, serving all points on the main and branch lines of The Atchison, Topeka & Santa Fe Railway Company between Fullerton, Santa Ana and Colton, including points on the Elsinore and San Jacinto branches.

Santa Fe Transportation Company shall not render local service, pursuant to the above certificate, between San Francisco, Richmond and intermediate points, nor between points in the Los Angeles Drayage area as defined in Appendix "A" to Decision No. 32504.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days after the effective date hereof.
- b. Within 60 days after the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and 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 tables.



- C. Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

MAIN HIGHWAY ROUTES

(1) Between San Francisco and Los Angeles:

From San Francisco via U. S. Highway 50 and State Highway 120 to Manteca; also from San Francisco through Stockton to Manteca via U. S. Highway 40, State Highway 4 and U. S. Highway 99; thence from Manteca via U. S. Highway 99 to Los Angeles.

(2) Between Los Angeles, Los Angeles Harbor and Long Beach:

From Los Angeles to Los Angeles Harbor (Wilmington-San Pedro) via Inglewood, El Segundo and Redondo Beach; thence from Los Angeles Harbor to Long Beach.

(3) Between Los Angeles and Fontana:

From Los Angeles via U. S. Highways 66-A and 66 to Fontana.

(4) Between Los Angeles, San Diego and National City:

From Los Angeles via U. S. Highway 101 By-Pass and U. S. Highway 101 to San Diego and National City.

(5) Between Fullerton, Santa Ana and Colton:

From the junction of U. S. Highway 101 By-Pass and Commonwealth Avenue via Commonwealth Avenue to Fullerton and thence via State Highway 14 to junction of State Highways 14 and 18; also from Santa Ana through Orange and Olive to junction of State Highways 14 and 18 via U. S. Highway 101, unnumbered highway and State Highway 18; thence from junction of State Highways 14 and 18 via State Highway 18 through Corona to Riverside; thence via U. S. Highway 395 to Colton.

(5-A) From Corona via State Highway 71 to Elsinore.

(5-B) From Riverside via U. S. Highways 60 and 395 to Perris; thence via State Highway 74 to Hemet; thence via State Highway 79 to San Jacinto.

ALTERNATE OR LATERAL ROUTES TO BE USED FOR  
OPERATING CONVENIENCE IN THE PERFORMANCE OF  
SERVICE BETWEEN MAIN HIGHWAY ROUTES AND POINTS  
ON THE LINES OF THE SANTA FE RAILWAY.

- (a) From Oakland to Pittsburg via State Highways 24 and 4.
- (b) From junction of U. S. Highway 50 and State Highway 120 to Stockton via U. S. Highway 50.
- (c) From U. S. Highway 99 at Turner to State Highway 120 at Simms via unnumbered highway.
- (d) From Manteca to Oakdale via State Highway 120.
- (e) From U. S. Highway 99 at Salida to Riverbank and Oakdale via unnumbered highways.
- (f) From U. S. Highway 99 at Modesto to Riverbank and Escalon via unnumbered highways.
- (g) From U. S. Highway 99 at Modesto to Empire via State Highway 132; thence via unnumbered highways through Hughson and Denair to U. S. Highway 99 at Turlock.
- (h) From U. S. Highway 99 at Ceres to Hughson via unnumbered highway.
- (i) From U. S. Highway 99 at Livingston via unnumbered highways through Winton to U. S. Highway 99 at Atwater.
- (j) From U. S. Highway 99 at Merced via State Highway 140 to Planada; thence via unnumbered highway through Le Grand to U. S. Highway 99 at Minturn; also west from Le Grand via unnumbered highway to junction with U. S. Highway 99.
- (k) From U. S. Highway 99 at Fresno via State Highway 41 and unnumbered highways to Conejo; thence via unnumbered highways through Laton, Hanford, Guernsey, Corcoran, Stoil and Allensworth to junction with U. S. Highway 99 at Earlimart.
- (l) From Laton to U. S. Highway 99 at Kingsburg via unnumbered highways.
- (m) From Hanford to Visalia via State Highway 198.
- (n) From Corcoran to Tulare via unnumbered highways.
- (o) From Corcoran via unnumbered highways and State Highway 190 to Porterville.
- (p) From Stoil to Alpaugh via unnumbered highway.

- (q) From U. S. Highway 99 west via unnumbered highway to Pond; thence via unnumbered highways through Wasco to Shafter; thence via Lerdo Road to junction with U. S. Highway 99.
- (r) From Wasco to U. S. Highway 99 via unnumbered highway.
- (s) From Shafter via unnumbered highways and State Highway 178 to Bakersfield.
- (t) From Fresno via State Highway 180 to Minkler; thence via unnumbered highway to Reedley.
- (u) From Minkler via State Highway 180 and unnumbered highways to Orange Cove.
- (v) From Cutler via unnumbered highways and State Highway 65 to Exeter.
- (w) From Porterville via State Highway 65 to junction with U. S. Highway 99 near Famoso.
- (x) From Redondo Beach through Torrance to Wilmington via unnumbered highways.
- (y) From U. S. Highway 66 at Azusa via Azusa Avenue to U. S. Highway 99.
- (z) From U. S. Highway 66 via State Highway 71 (Garcey Avenue) through Pomona to U. S. Highway 99.
- (aa) From U. S. Highway 66 via Archibald Avenue through Cucamonga to U. S. Highway 99.
- (bb) From U. S. Highway 66 (near plant of Kaiser Co., Inc., Iron and Steel Division) via Cherry Avenue to U. S. Highway 99.
- (cc) From U. S. Highway 66 via Sierra Avenue through Fontana to U. S. Highway 99.
- (dd) From Los Angeles via U. S. Highway 101 and State Highway 35 to Santa Fe Springs; thence via Anaheim-Telegraph Road and Leffingwell Road to U. S. Highway 101; thence via U. S. Highway 101 through Fullerton to junction of U. S. Highway 101 and U. S. Highway 101 By-Pass.
- (ee) From junction of U. S. Highway 101 By-Pass and State Highway 19 via State Highway 26 to Santa Fe Springs; thence via State Highway 35 to junction with U. S. Highway 101 By-Pass.
- (ff) From junction of Anaheim-Telegraph Road and Valley View Avenue via State Highway 26 to U. S. Highway 101 By-Pass at Buena Park.

## APPEARANCES

### Applicant

G. T. Hurst, Louis M. Welsh, Allan P. Matthew, Les E. Sievert, G. H. Trautman, Roland J. Henning and William F. Brooks.

### Protestants

Henry J. Bischoff, H. P. Merry and W. A. Steiger, for Southern California Freight Lines and Southern California Freight Forwarders; R. E. Burton and Harold Frasher for Valley Express Co. and Valley Motor Lines; Hugh Gordon, Wyman C. Knapp, John E. Hennessy and Sanford Waugh, for Pacific Freight Lines and Pacific Freight Lines Express; Willard S. Johnson, for Hills Transportation Company; Phil Jacobson, Richard Cantley and Lloyd R. Guerra, for Western Truck Lines; Douglas Brookman for California Motor Express, Ltd., and California Motor Transport Company, Ltd., R. E. Wedekind, E. L. H. Bissinger, William Meinhold and F. F. Willey, for Southern Pacific Company, Pacific Motor Trucking Company, Pacific Electric Railway Company, Visalia Electric Railway Company, Holton Interurban Railway Company, San Diego and Arizona Eastern Railway Company, Central California Traction and Sunset Railway; W. H. Kessler for Western States Express, Pacific States Express and California Freight Forwarders; Fred W. Mielke for Delta Lines, Inc., Arlo D. Poe for Motor Truck Association of Southern California and Truck Owners Association of California; Edward Trimmer and J. F. Vizzard, for Highway Transport Co., Inc.

### Interested Parties

Edward M. Berol and Marvin Handler, for Savage Transportation Company; Scott Elder for Western Transport Company; Arlo D. Poe, Reginald L. Vaughan, Varnum Paul, John G. Lyons and E. S. Stanley, for Associated Freight Lines; A. S. Glickberg, Frank Loughran and Louise Lessner, for Pacific Intermountain Express; James D. Garibaldi and H. L. Scott, for Sterling Transit Co., Inc.; L. J. Smallpage for Lillie Transportation Co.; Ray E. Untereiner, Arthur H. Glanz and E. M. Peak, for Charles F. Hart Transportation Company; Howard J. Baladine, for Lyons Van Lines, Inc.; J. W. Barker, for Calmay Van Lines; Marvin Handler for Bekins Van Lines, Inc., Calmay Van Lines, Lyons Van Lines, Inc., and James Van Lines; Jackson W. Kendall, H. A. Kern, Wyman C. Knapp and E. W. Kerutu, for Bekins Van Lines and California Van and Storage Association; Reginald L. Vaughan, Varnum Paul and John G. Lyons, for Coast Line Truck Service, Inc., and Clark Bros. Motor Transport System, Inc.; Ross G. Van Gundy, for James Van Lines; L. N. Bradshaw and E. W. Steel, for Western Pacific Railway Company, Sacramento Northern Railway and Tidewater Southern Railway Company; H. R. Erashear, for the Los Angeles Chamber of Commerce; R. J. Beck, for El Rey Products Company; Russell Bevans, for San Francisco Movers, Inc.; R. E. Crandall, for Associated Jobbers and Manufacturers; J. J. Deuel and Edson Abel, for California Farm Bureau Federation; Preston W. Davis, for United Parcel Service of Los Angeles; Alphonse T. Eche, for Western Traffic Conference; L. C. Faus, in propria persona; C. A. Hodgman, for the Port of San Diego and the San Diego Chamber of Commerce; E. L. Hiatt, for Union Oil Company; F. P. Kensinger, for M. J. B. Co. and Western Can Company; T. F. McCue, for Crane Company; Jacob Maniss, for Heating and Cooking Equipment Manufacturers; A. E. Patton, for Richfield Oil Corporation and Rio Grande Oil, Inc.; Melvin A. Pixley and F. W. Turcotte, for Furniture Fast Freight;

J. E. Reardon, W. E. Paul and P. R. Smith, for Union Oil Company; Walter A. Rohde, for the San Francisco Chamber of Commerce; Edward Stern, for the Railway Express Agency, Inc.; W. C. Stone, for Sacramento Chamber of Commerce; Leroy W. Smith, for Loretz and Shannon; J. C. Sommers, for Stockton Chamber of Commerce; Wallace L. Ware and E. G. McMicken, for H. F. Alexander; F. J. Wigle, for California State Brewers Institute; G. H. Trautman and J. H. Anderson for The River Lines.

(gg) From U. S. Highway 101 to Linda Vista via unnumbered highway.

(hh) From junction of U. S. Highway 101 By-Pass and State Highway 18 via State Highway 18 through Anaheim to Olive.

(ii) From junction of Chapman Avenue and U. S. Highway 101 via Chapman Avenue through Orange to junction of Chapman Avenue and State Highway 55.

(jj) From junction of State Highway 18 and 55 near Olive via State Highway 55 to junction with U. S. Highway 101 near Tustin.

(kk) From junction of U. S. Highway 395 and Iowa Avenue near Highgrove via Iowa Avenue to junction with U. S. Highways 60 and 395.

(ll) From State Highway 74 to Winchester via unnumbered highway.

Over any and all other available highways, roads and streets between the main highway routes described and points on the lines of the Santa Fe Railway to which service is authorized.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of October, 1949.

Justus F. Green  
Joseph H. Powell  
Harold A. Kelt  
Herbert H. Patten  
COMMISSIONERS