

ORIGINAL

Decision No. 49835

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 CALIFORNIA MOTOR TRANSPORT CO., LTD.,  
 a corporation, for an extension of  
 its highway common carrier certificate  
 to include (1) an enlargement of the  
 existing Los Angeles territory of  
 applicant east to U.S. Highway 91  
 and State Highway 55; (2) an exten-  
 sion east of San Bernardino along  
 County Road and three miles on each  
 side thereof to and including  
 Highland and east along U.S. Highway  
 99 and three miles on each side  
 thereof to and including Redlands;  
 and (3) an extension south along  
 U.S. Highways 101 and 101 Alternate  
 and three miles on each side there-  
 of to and including the San Diego  
 territory.

Application No. 33984

Douglas Brookman, for applicant. Robert W. Walker,  
Richard K. Knowlton, Wallace Ware and Hugh Gordon, for  
 The Atchison, Topeka and Santa Fe Railway Company and  
 the Santa Fe Transportation Company; Gordon, Knapp and  
Gill, by Hugh Gordon, for Pacific Freight Lines and  
 Pacific Freight Express; Marvin Handler, for Machado  
 Trucking Company; Bertram S. Silver, for Culy Transporta-  
 tion Company and Sterling Transit Company, protestants.  
B. E. Rowland and E. M. Berol, for Willig Freight Lines,  
 interested party.

O P I N I O N

Applicant herein operates as a highway common carrier  
 (a) between San Francisco-East Bay and Los Angeles via the Coast  
 route and the Coast, Pacheco Pass and Valley routes; (b) between  
 San Francisco-East Bay and various points in the San Joaquin  
 Valley, including Fresno and points south, east and west thereof,

over the Coast route and connecting routes, including Pacheco Pass; (3) between Los Angeles and the San Joaquin Valley points mentioned, as well as Valley points extending north from Fresno to Stockton and Sacramento. To a large extent applicant acts as the underlying carrier of California Motor Express, Ltd., an express corporation as defined in Section 219 of the Public Utilities Code.

The Los Angeles territory of applicant is defined in Decision No. 43030, dated June 21, 1949, in Application No. 27910. In the instant application authority is requested for (1) an enlargement of the pickup and delivery zone of applicant in its Los Angeles territory to include all points and places within an area bounded on the north by three miles north of U. S. Highway 66 to its junction with U. S. Highway 91 at San Bernardino, on the east by three miles east of U. S. Highway 91 to its junction with State Highway 55 and three miles east of State Highway 55 to its junction with U. S. Highway 101 Alternate at Newport Beach; (2) an extension east of San Bernardino along a county road and three miles each side thereof to and including Highland, and an extension east of Colton on U. S. Highway 99 and three miles each side thereof to and including Redlands, and an extension southeast of Riverside along U. S. Highway 395 and three miles each side thereof to and including March Field; (3) an extension south from Santa Ana along U. S. Highway 101 and south from Newport Beach along U. S. Highway 101 Alternate and three miles on each side of said highways to and including all points within the San Diego

territory as defined in Item 271-C of Highway Carriers' Tariff  
(1)  
No. 2. No local service is proposed between points, both of which are located within applicant's existing Los Angeles territory or within the extension thereof as requested herein. It is further proposed to restrict transportation to shipments having origin or destination north of the existing Los Angeles territory of applicant.

Public hearings were held on April 7 and 8 and June 3, 1953, at San Francisco, May 11 and June 4, 1953, at Los Angeles, and June 5, 1953, at San Diego, during which times evidence was adduced, and on the last named date the matter was submitted subject to the filing of briefs. Briefs now have been filed and the matter is ready for decision.

At the hearings an official of applicant company presented Exhibit 1 which describes the present operations of applicant. It contains a list of its existing certificates, a map of the routes and areas now served and the proposed extensions, a description of the terminals presently owned and leased by applicant, and a list of the equipment operated. It likewise describes the services now rendered by applicant and the personnel employed. It contains financial statements consisting of a balance sheet as of December 31, 1952, and an income statement for the calendar year ended December 31, 1952,

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(1) San Diego territory includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101E and 101W (four miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

and, finally, contains a description of the proposed service. The witness pointed out that the applicant company presently is handling traffic originating at or destined to points in the extended areas herein proposed to be served and that such traffic is handled by an interchange arrangement at Los Angeles. The principal carriers with whom this interchange is effected are the Southern California Freight Lines, Pacific Freight Lines, Public Freight System, and San Diego Forwarding Company. The witness further testified that applicant is competitive in this service with carriers who render a through service without interchange and that this places applicant at a competitive disadvantage inasmuch as many shippers prefer to avoid the delays and inconvenience caused by the interchange of freight at Los Angeles. The witness contended that the proposed service would eliminate several handlings of freight and would thereby reduce the claim hazard and expedite the handling of claims as well as the tracing of shipments and the handling of C.O.D. funds. Likewise, it would provide an overnight service to the extended areas. Exhibit 1 contains an analysis of the intrastate traffic moving to and from the proposed extended territories during the month of January, 1953, and a projection of the estimated totals on a yearly basis of traffic that would be hauled. An analysis of this operating testimony leads us to the conclusion and we now find that applicant is willing and able to render the proposed service.

In support of the proposal applicant presented the testimony of thirty shipper witnesses who, in general, testified that their companies are shipping to or from the areas proposed to be served. They further testified that they are using

applicant in its presently authorized services and that these services are satisfactory. They expressed a desire for a through service to the extended area and stated that they would use applicant were the proposed service authorized. Some of these witnesses pointed out the advantages of having one through carrier and thereby avoiding an interchange at Los Angeles.

Additional testimony was presented by representatives of seven truck lines, six of whom opposed the application, and one of whom supported it. A witness for the Southern California Freight Lines testified that his company serves the territory proposed by applicant but that it favors this application since applicant is a well organized and established carrier. He pointed out that the problem is not with the type of carrier such as applicant, but rather with small carriers who pick and choose the freight that they will handle.

The Pacific Freight Lines presented Exhibits 2 to 11, which consist of a list of the existing operating authorities of that company, a map and list of the points served, a list of the equipment owned and/or operated, and the principal stations maintained. In addition these exhibits presented a statement of the land and improvements owned or leased by this carrier as well as balance sheets and profit and loss statements. There was an exhibit showing the number of shipments handled by this company in the areas herein concerned for the first three months of 1953 and an exhibit showing the number of trailers moving empty in these areas for the same period. The witness for this company testified that it is now conducting daily operations in all of the territory herein proposed to be served and also

exchanges freight with the applicant at Los Angeles. He contended that the company has available facilities for additional traffic, that it had operated at a loss in 1952, and had achieved only a small profit for the first part of 1953. Upon cross-examination it was developed that this carrier now is soliciting freight on the basis that it is rendering a through service to the areas concerned without interchange at Los Angeles.

The Santa Fe Transportation Company presented Exhibits 12 to 16, inclusive, which show the authorized routes of that company, the freight agency stations maintained, a list of the points served, a record of the equipment operated, and the time schedules maintained by that carrier. A witness for this company testified that it maintains a through service from San Francisco to San Diego but interchanges at Los Angeles for San Bernardino. Generally it maintains overnight service in these areas and has available equipment to handle additional traffic. This witness also testified that the southbound traffic to San Diego and the eastbound traffic to San Bernardino is heavier than traffic in the reverse directions and that, therefore, the company has empty equipment northbound from San Diego and westbound from San Bernardino. It was also developed that in the areas proposed to be served there is competition from other certificated and permitted carriers. This carrier likewise is soliciting traffic on the basis of providing through service.

A witness for the Pacific Motor Trucking Company testified that his company has authority to operate in the territory east of Los Angeles, particularly to the areas served by the Southern Pacific and Pacific Electric Railway Companies.

The Machado Trucking Company presented Exhibits 17, 18 and 19, which show the equipment operated by that company, financial statements, and an exhibit showing a comparison of the contract carrier traffic handled by Machado with its common carrier operations. The witness for this company described the terminals it maintains and testified that the company can handle more traffic on its present equipment. He observed that the company is providing an overnight service generally and that it is now operating at a loss. This carrier does not have highway common carrier rights in the territory concerned, with the exception of a service between Los Angeles and Bakersfield, but it is now applying for authority to serve the Los Angeles basin area.

The Culy Transportation Company presented Exhibits 21 to 25, which consist of copies of the operating authority in California held by that carrier, a list of equipment, a balance sheet and a profit and loss statement, and a statement showing the total deadhead miles operated by that company during 1952 and the first part of 1953. The witness for this company also testified that the heaviest movement of freight is southbound and that as a result its trucks leave San Diego empty. However, it was developed that these trucks travel empty from San Diego to Long Beach but there pick up freight under Culy's contract carrier operations. This company maintains no terminal in San Francisco but has an agency arrangement in that city.

A witness for the Sterling Transit Company testified that company transports general commodities from the San Francisco Bay area to Fresno, Bakersfield, Los Angeles and San Diego. He likewise testified to the preponderance of southbound

traffic and as to the availability of equipment, particularly for northbound hauls from San Diego. This company maintains no terminal in San Francisco but, rather, in Oakland.

Shipper witness testimony presented by protestants consisted of one witness who appeared at the hearing and the testimony of 65 witnesses entered by stipulation. The substance of this testimony was that the shippers concerned ship to and from the territory herein proposed to be served by applicant, that the service of the presently authorized carriers is satisfactory, and that they have no need for additional carriers.

A review of all of the evidence adduced herein and a consideration of the briefs filed leads us to the conclusion and we now find that public convenience and necessity require the service as proposed by applicant. We are aware of the fact that applicant is one of the old established carriers in California and of the further fact that there is a strong public support for its proposal. We are also aware of the rapid growth in population, business and industry in the areas concerned. There is no question as to applicant's ability to provide this service and while we are aware of protestants' contentions that there is an unbalanced haul and that protestants have facilities to handle additional traffic, we are likewise aware of the testimony in this proceeding indicating that some of the protestants are applicants for additional operating authority and that some of the principal competition they have in the areas concerned comes from small carriers who may not have any certificated rights from this Commission. In the light of this record the application will be granted.



California Motor Transport Co., Ltd., is 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

Application as above entitled having been filed, public hearings having been held thereon, the matter having been duly submitted and the Commission now finding 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 California Motor Transport Co., Ltd., a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of general commodities between all points and places in its presently authorized territory north of its existing Los Angeles territory, on the one hand, and, on the other, the following described territory along the routes indicated:

- (a) An enlargement of the Los Angeles territory of California Motor Transport Co., Ltd., as presently authorized by Decision No. 43030, dated June 21, 1949, in Application No. 27910, to include all points and places within an area bounded on the north by three miles north of U. S. Highway 66 to its junction with U. S. Highway 91 at San Bernardino, on the east by three miles east of U. S. Highway 91 to its junction with State Highway 55 and three miles east of State Highway 55 to its junction with U. S. Highway 101 Alternate at Newport Beach.
- (b) Between San Bernardino and Highland along an unnumbered county road including points within three miles of either side thereof, between Colton and Redlands via U. S. Highway 99 including points within three miles of either side thereof, and between Riverside and March Field via U. S. Highway 395 including points within three miles of either side thereof.
- (c) Between Santa Ana and the San Diego territory, as hereinafter described, via U. S. Highway 101, and between Newport Beach and the San Diego territory, as hereinafter described, via U. S. Highway 101 Alternate and U. S. Highway 101, including all points within three miles of either side of said highways.

San Diego territory includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 101E and 101W (four miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

- (2) That the authority granted herein is subject to the following condition:

California Motor Transport Co., Ltd., shall render no local service between points which are located within the Los Angeles territory as extended by this decision.

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

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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

Dated at San Francisco, California, this 16<sup>th</sup> day of March, 1954.

R. B. Dunderberg  
President

James F. Colwell

Kenneth Pottel

John E. White

Gene Higgins

Commissioners