

ORIGINAL

Decision No. 52625

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
UNION TRUCK CO. INC., a California)	
corporation, for a certificate of)	Application No. 36398
public convenience and necessity to)	
operate as a highway common carrier)	
for the transportation of property.)	

Phil Jacobson, for applicant.

Bertram S. Silver, for Daigh and Stewart Truck Company, Rush Swoape Trucking Co., Inc., Lacey Trucking Co., Chesley Transportation Co., Inc., D. A. Brown Trucking Co., Crail Transportation Co., Nielson Freight Lines, Associated Transportation Co., Inc., Nevada-California Transportation Company, West Berkeley Express and Draying Co., Lodi Truck Service, and Warren Transportation Co.; Willard S. Johnson, for J. Christenson Co., Ted Peters Trucking Company, Inc., and J. A. Nevis Trucking, Inc.; Benn W. Porter, for Higgins Trucks, Inc.; and Grove G. Lautzenhiser, for Orange Empire Truck Lines, Inc.; interested parties.

O P I N I O N

By the application herein, filed on November 15, 1954, as amended on August 12, 1955, Union Truck Co., Inc., a California corporation, sought a certificate of public convenience and necessity as a highway common carrier for the transportation of property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas or water wells, pipelines, refineries, and cracking or casing head plants, and equipment and material used in construction and farming, via all major U. S. and State Highways in the State of California, including all

points laterally within 50 miles of the routes, and subject to the following restrictions:

- (a) Applicant shall not transport any shipment weighing less than 10,000 pounds, or any shipment which shall carry a charge lower than that applicable to a shipment of not less than 10,000 pounds.
- (b) Transportation shall be limited to commodities originating at or destined to an oil well site, construction site, or farm, or originating at or destined to a storage yard.

A public hearing was held on August 29, 1955, before Examiner Kent C. Rogers, in Los Angeles, at which time evidence was presented and the matter was submitted. Numerous highway common carriers appeared at the hearing in protest to the granting of the application. The applicant stipulated that, if a certificate is granted, it shall be restricted as follows:

- (1) Service shall be rendered only to, from, and between points and places in San Luis Obispo, Fresno, Kings, Santa Barbara, Ventura, Kern, Los Angeles and Orange Counties. (1)
- (2) Applicant shall not transport any shipments of commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
- (3) Applicant shall not transport any shipments of fresh dairy products between points and places on or within five (5) miles laterally of State Highway No. 33 between Los Banos and Patterson, both inclusive, on the one hand, and San Francisco and East Bay Cities from Richmond on the north to Hayward, on the south, both inclusive, or Stockton, California, on the other hand. (2)

(1) Oral stipulation at the hearing.

(2) Stipulation Exhibit No. 1.

- (4) Applicant shall not transport any shipments of iron and steel articles and tin plate having their origin or destination at Pittsburg. (3)

All protests were thereupon withdrawn.

Union Truck Co., Inc., hereinafter called applicant, maintains one terminus in Ventura, California, and will establish additional facilities if business warrants. It conducts operations at present pursuant to radial highway common carrier and city carrier permits. In addition, it conducts operations pursuant to a petroleum irregular route certificate, issued by this Commission, which authorizes it to render service in that portion of the State of California south of the Sixth Standard Parallel South. (4)

Applicant's secretary-treasurer testified that it has been rendering the type of service for which it herein seeks a certificate for 12 to 13 years pursuant to permits issued by this Commission; that the equipment listed on Exhibit No. 7 is used and will be used in the type of operations here involved and that this equipment is peculiarly adopted for use in such operations; that its services are, and will continue to be, on call; that it charges and will continue to charge the rates prescribed by

(3) Oral stipulation at the hearing. Restriction No. 3 was agreed to prior to the acceptance of restriction No. 1. As the applicant does not propose to serve along State Highway No. 33 between Los Banos and Patterson, nor in the San Francisco Bay territory, there is no point in including this restriction in the order herein and it will be disregarded. Restriction No. 2 appears to be immaterial as applicant hauls and proposes to haul heavy equipment in open trucks. However, as the applicant agreed to such restriction, it will be included in the order herein.

(4) Decision No. 44383, dated June 20, 1950, in Application No. 31243, and Decision No. 50281, dated July 13, 1954, in Application No. 35522.

Southwestern Motor Tariff Bureau, Local and Proportional Freight Tariff No. 6, Cal. P.U.C. No. 14 of Agent, J. L. Beeler, supplements thereto and successive issues thereof; that its current assets exceed its current liabilities (Exhibit No. 8); and that it had a net profit from all operations of \$4,716 for the first five months of 1955 (Exhibit No. 9).

The witness stated that Exhibit No. 10 contains a representative list of the shippers or consignees for whom the applicant has rendered service as herein proposed in the past and that such transportation has been destined, collectively, to all points in the State of California.

All shipments transported by the applicant (other than petroleum in bulk and city carrier traffic) for the months of June and August, 1953, the month of August, 1954, and the months of March and April, 1955, are reflected in Exhibits 2 through 6 herein. The applicant's witness testified that the shipments reflected in those exhibits are typical of its traffic, and that such shipments are presently carried pursuant to its radial highway common carrier permit. He further stated that the reason applicant seeks a certificate of public convenience and necessity is to enable it to compete with various carriers who now render the identical type of service pursuant to such certificates. (5)

(5) See, for example, Decision No. 44262, dated May 26, 1950, whereby Oilfields Trucking Company (Application No. 30691) and Lacey Trucking Co. (Application No. 30806) were each granted the type of certificate requested herein.

After careful consideration of the entire record, we find that public convenience and necessity require the establishment and operation of a service by applicant as a highway common carrier to the extent set forth in and subject to the conditions and limitations contained in the ensuing order.

Applicant 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 as to the number of rights which may be given.

O R D E R

An application having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and having found that public convenience and necessity so require, and based on said finding,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Union Truck Co., Inc., a corporation, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

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

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed upon notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.
- (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.

In all other respects Application No. 36398 is denied.

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

Dated at San Francisco, California, this 4th day of October, 1955.

[Signature]
President

Justice F. Callahan

Raulo Intaperine

Manuel J. Dwyer

[Signature]
Commissioners

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Union Truck Co., Inc., by the certificate of public convenience and necessity granted in the above-numbered decision is authorized to transport property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas or water wells, pipe lines, refineries, and cracking or casing head plants, and equipment and material used in construction and farming upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of 50 miles of such routes, provided that any service performed pursuant to the certificate herein granted is restricted to shipments moving to, from and between points and places in San Luis Obispo, Fresno, Kings, Santa Barbara, Ventura, Kern, Los Angeles, and Orange Counties, in California:

U. S. Highway 101 and U. S. Highway 101 By-Pass;
U. S. Highway 99;
U. S. Highway 66;
U. S. Highway 60.

Applicant shall not transport any shipment which shall carry a charge lower than that applicable to a shipment of 10,000 pounds.

Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil well site, construction site or farm, or originating at or destined to a storage yard.

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Applicant shall not transport any shipments of commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.

Applicant shall not transport any shipments of iron and steel articles and tin plate having their origin or destination at Pittsburg, California.