

4. 36058 AM

as a witness in its behalf. A financial statement of applicant was annexed to the application.

At the first hearing there were two protests to this application, one of which was later withdrawn. The other was only partially withdrawn. An issue was left respecting service to intermediate points on U. S. Highway 40 between Carquinez Strait and Sacramento.

Applicant is one of several companies, including California Motor Express Co., Ltd., which are owned by the same interests. Collectively, they are known as the "California Motors" system. The financial resources, facilities, equipment, experience and personnel, both of applicant and of the California Motors system as a whole, are adequate for the purposes of this application.

Public convenience and necessity for applicant's present certificate was, of course, determined at the time when this authority was originally granted. Applicant's traffic manager testified, in effect, that the public's convenience was not served by the weight and commodity restrictions in these certificates.

One of these restrictions bans the transportation of "auto parts" from any San Francisco Bay city, except South San Francisco, to Sacramento. Such parts may be carried from all the bay cities to Stockton, Lodi and Tracy. This restriction has proved both confusing and annoying to shippers. Those who ship auto parts to other points wish to ship to Sacramento as well.

Another restriction provides that when applicant carries a shipment of more than 10,000 pounds, the shipper must be assessed the rate applicable to shipments subject to a minimum weight of 10,000 pounds. The form of this restriction appears undesirable to the Commission.

These restrictions have proved vexatious to shippers and confusing to employees of applicant, according to the testimony of the traffic witness. This being so, it is clear that they do not serve the ends of public convenience and necessity. Their deletion from the applicant's certificate appears to be desirable.

In 1951, by an amendment to applicant's certificate, its operating authority was extended to include those intermediate points between Stockton and Sacramento, but not the ones between Tracy and Stockton. Applicant's operating authority includes Tracy. Therefore, the intermediate points between Tracy and Stockton ought also to be included.

All protests were withdrawn to the extensions heretofore discussed. A protest remains, however, to applicant's request for local service rights to points on U. S. Highway 40 between applicant's bay area points and Sacramento. The president of protestant testified on this point. He pointed out that there were at least three carriers besides his own company serving these points. He also testified that these are points of less traffic density and must be served as an incident to the San Francisco-East Bay-Sacramento service. He stated that he had capacity available and would like to have additional traffic into the area. In many instances the Commission has granted operating rights in the face of such testimony in cases where it was outweighed by convincing evidence of public convenience and necessity. Such evidence does not appear in this record. The Commission is of the opinion that, on the record as it stands, this part of applicant's request must be denied. In other respects the application will be granted.

Stockton Motor Express, a corporation, 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

Application having been filed, public hearing held thereon, the Commission having considered the same and being of the opinion and finding that public convenience and necessity so require, therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Stockton Motor Express, a corporation, authorizing the establishment and operation of service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

(2) That the present operating authority of Stockton Motor Express created by Decision No. 46029, dated July 31, 1951, as amended by Decision No. 47057, dated August 7, 1951, both in Application No. 30286 is hereby revoked and canceled. Such revocation and cancellation shall take effect simultaneously with the institution of service under the authority herein granted.

(3) That Application No. 36058 be, and it hereby is, denied without prejudice except to the extent it is herein granted.

(4) That in providing service pursuant to the authority herein granted applicant shall comply with the following service regulations:

- a. Within thirty days after the effective date of this order, 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 comply with the provisions of General Order No. 80 by filing in triplicate and concurrently making 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 1st day of NOVEMBER, 1955.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Justus E. Craomer, being necessarily absent, did not participate in the disposition of this proceeding.

AM

Decision No: 52175

Dated NOV 1 1955

Application No. 36058

APPENDIX A

Stockton Motor Express by the certificate of public convenience and necessity granted in the above-numbered decision is authorized to transport general commodities, except uncrated household goods, livestock, articles of unusual value, petroleum products in bulk in tank vehicles and fresh fruits and vegetables.

- (a) Between South San Francisco, San Francisco, Oakland, Berkeley, Alameda, Emeryville, Richmond and San Leandro on the one hand and Tracy, Stockton, Lodi and Sacramento and points intermediate to Tracy, Stockton and Sacramento on U. S. Highways 50 and 99 on the other hand.
- (b) Between Tracy, Stockton, Lodi and Sacramento.
- (c) Between Tracy, Stockton, Lodi and Sacramento on the one hand, and points intermediate thereto on U. S. Highways 50 and 99 on the other hand.
- (d) Between the intermediate points named in paragraphs (a) and (c).
- (e) Applicant shall conduct operations over and along U. S. Highway 101 By-Pass, San Francisco-Oakland Bay Bridge and U. S. Highways 40, 50 and 99.