

ORIGINALDecision No. 54165

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BRAKE DELIVERY SERVICE, a corporation,)
 (formerly Harold M. Brake and)
 Bessie E. Brake, as Trustee for)
 Harold A. Brake) for a certificate of)
 public convenience and necessity to)
 operate as a highway common carrier)
 of general commodities with some)
 exceptions between various points)
 and places in Southern California)
 pursuant to Public Utilities Code)
 Sections 1063-1064.)

Application No. 36275

Glanz & Russell by Arthur H. Glanz, for applicant.
 Preston Davis and Roger Ramsey, for United Parcel
 Service, interested party.

A. R. Reader, for Desert Express; William Meinhold
 and Frederick E. Fuhrman, for Southern Pacific
 Company and Pacific Motor Trucking Company;
H. J. Bischoff, for Southern California Freight
 Forwarders and Southern California Freight Lines;
 protestants.

O P I N I O N

Applicant is engaged in the transportation of property
 in California pursuant to permits issued by this Commission.

Applicant seeks an order authorizing it to conduct
 service as a highway common carrier for the transportation of
 general commodities, with certain exceptions, generally between
 Los Angeles Territory, on the one hand, and various points in
 San Diego, San Bernardino, Riverside, San Luis Obispo, Kern and
 Ventura Counties, on the other hand.

Notice of filing of the application was given all common
 carriers subject to the jurisdiction of this Commission.

A public hearing was held at Los Angeles on September 24,
 1956 before Examiner Carl Silverhart.

Protestants did not offer any testimony but engaged in
 cross-examination of applicant.

Upon consideration of the allegations of the application, the representations filed pursuant to the above-mentioned notice and the evidence adduced herein, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. It appears that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein.

Applicant is hereby placed on 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, such rights 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

A public hearing having been held and based upon the evidence therein adduced and the application and representations filed herein,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Brake Delivery Service, 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 and Appendix B attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate 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. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on 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 on not less than ten 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 ninety days after the date hereof.

Dated at Los Angeles, California, this 4th day of DECEMBER, 1956.

Edward P. Mitchell
President
Walter J. K. ...
...
R. Hardy
E. L. ...
Commissioners

Brake Delivery Service, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

- A. All points within the Los Angeles Territory as more particularly described in Appendix B attached hereto.
- B. Inglewood and Los Angeles, on the one hand, and San Diego, on the other hand.

The authority set forth in paragraph B does not include the right to render service to, from or between intermediate points.

Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs A and B.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.

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4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

End of Appendix A

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APPENDIX B TO DECISION NO. 52165

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly easterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U. S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to Lower Azusa Road; easterly on Lower Azusa Road to its intersection with the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to State Highway No. 26; westerly along State Highway No. 26 to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.