

ORIGINALDecision No. 55089

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 certifi-) Application No. 36004
 cates to eliminate restrictions against)
 service between certain points located)
 on its certificated routes from the)
 San Francisco Bay Area to King City.)

Douglas Brookman and Francis X. Vieira, for applicant.
Edward M. Bero, for Highway Transport, Inc., Coast
 Line Truck Service and Bisnett Bros.; William Meinhold
 and Frederick E. Fuhrman, for Southern Pacific Company
 and Pacific Motor Trucking Company; Daniel W. Baker
 and Marvin Handler, for Bisnett Bros., protestants.
Willard S. Johnson, for J. Christenson Co., interested
 party.

O P I N I O N

This application was filed on November 12, 1954. Public hearings were held by Examiner John Power on May 1, 2, 3 and October 1, 1956, at San Francisco; on July 11, October 2 and 3, 1956, at Santa Cruz; and on July 12 and October 4, 1956, March 7 and 8, 1957, at Monterey. On the last named date the matter was submitted subject to the filing of concurrent briefs and reply briefs. The latter have now been received and the matter is ready for decision.

The applicant here is one of a group composed of several corporations and one partnership. Acting as a group, these companies render a truck transport service in the area between San Francisco, Martinez and Sacramento on the north and San Diego on the south. They serve in Southern California as far east as San Bernardino and Redlands. Most San Joaquin Valley points and coast highway points are served as intermediates, the principal exception to this being

the points on and near Monterey Bay which are the subject of this application. Applicant has served between San Francisco and Los Angeles since June of 1930 when a right to serve between those cities via coast route was acquired by purchase.

In 1944, a right was acquired from the Valley and Coast Transit Company. This right authorized service between and among many coast and San Joaquin Valley points. This last acquisition is now subject to a number of territorial exclusions by which applicant is restrained from serving the Monterey Bay area and points on U. S. Highway 101 north of that area. The exact extent of these restrictions varies depending on the part of applicant's system involved. It is this group of territorial exclusions that applicant seeks to remove.

In support of its request applicant produced a number of shipper witnesses at San Francisco, Santa Cruz and Monterey. When their turn came the protestants produced another large number chiefly from points on or near Monterey Bay. Applicant's San Francisco witnesses were, for the most part, users of applicant's service and frequent shippers. They were already receiving pickups from applicant and extension of its authority would be a convenience to them. Applicant's witnesses in Santa Cruz and Monterey emphasized the benefits of competition.

Protestant's public witnesses were all examined at Santa Cruz and Monterey. They were well satisfied with the service they were receiving. Some feared dilution of service if more competition were authorized in their area.

The conflict of the testimony on the two sides is more apparent than real. Since the different witnesses have differing

problems their approach to transportation differs. Their testimony is a reflection of their several approaches. The Commission can see no reason for preferring one group over the other.

In addition to the above testimony both sides put in other, including operating, testimony. This involved 31 exhibits and considerable oral testimony.

Our conclusion reached upon consideration of the shipper witness testimony is strongly buttressed when other necessary factors are weighed. These include the experience, financial soundness, facilities and equipment of applicant; the public interest; the economic soundness of the restrictions complained of.

Applicant has been in the certificated carrying business for more than a quarter of a century. It now has about fourteen thousand active accounts. It has had to meet steady increases in competition. It has successfully done so. This result has been accomplished without financial impairment. As of December 31, 1955, applicant's cash exceeded total current liabilities in the approximate ratio of ten to seven. Substantial net profits were earned in each of eight years, 1948-1955, inclusive. There has been a steady growth in terminals and in the equipment fleet.

Restrictions of the type under consideration here are hard to justify from the standpoints of economies and the public interest. It is known that they are irritating to shippers, especially consignors in metropolitan areas. They do not make for efficient operations.

The Commission finds and concludes that public convenience and necessity require that the restrictions here complained of should be removed from applicant's certificates.

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

Public hearings having been held and the Commission basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to California Motor Transport Co., Ltd., 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, to be an extension of and consolidated with the present operative rights of applicant.

(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.

(3) The present operating authority of California Motor Transport Co., Ltd., is hereby revoked and canceled to the extent that it duplicates the authority granted by this order. Such revocation and cancellation shall take effect simultaneously with the institution of service under the authority granted herein.

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

Dated at San Francisco, California, this 4th day of JUNE, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners

California Motor Transport Co., Ltd., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities:

1. Between San Francisco, San Jose and intermediate points via U. S. Highways 101 and 101 By-pass.
2. Between Hayward, San Jose and intermediate points via State Highways 9, 17 and 21.
3. Between San Francisco Territory as described in Appendix B hereto attached, and points located:
 - A. Between San Jose, Santa Cruz, and intermediate points via State Highway 17; also between Sunnyvale, Santa Cruz and intermediate points via State Highway 9, the County Road between Saratoga and Los Gatos, and State Highway 17.
 - B. Between Santa Cruz, Carmel and intermediate points via State Highway 1 including all off-route points on the Monterey Peninsula lying west of State Highway 1.
 - C. Between Salinas, Monterey, and intermediate points via County Road passing through Del Monte.
 - D. Between Castroville, Salinas, and intermediate points via County Road passing through Del Monte Junction; also between Castroville, Prunedale and intermediate points via State Highway 156.
 - E. Between Watsonville, U. S. Highway 101 and intermediate points via State Highway 152 including service to the off-route point of Freedom; also via Chittenden Pass and also via County Road connecting with U. S. Highway 101 five miles north of Prunedale.
 - F. Between Hollister, U. S. Highway 101 and intermediate points via State Highways 25 and 156.

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- G. Between San Jose, King City and intermediate points located on U. S. Highway 101.
 - H. Between points named and intermediate points and between intermediate points on and along all routes named in each of the sub-paragraphs A through G above.
 - I. Between all points enumerated in sub-paragraphs A through H above.
4. Between all points and places, not named herein, which applicant is authorized to serve, on the one hand and all points designated herein on the other hand.

Applicant shall not transport any shipments of:

Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.

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.

Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

Dangerous explosives.

End of Appendix A

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SAN FRANCISCO TERRITORY includes that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway No. 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway No. 101 to its intersection with the corporate boundary of the City of San Jose; southerly, easterly and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway No. 40 (San Pablo Avenue); northerly along U. S. Highway No. 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said water front and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.