

ORIGINALDecision No. 55046

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 HILLS TRANSPORTATION CO., a
 corporation, for a Certificate of
 Public Convenience and Necessity to
 extend highway common carrier service
 to points in Los Angeles Basin
 Territory.

Application No. 39089

Willard S. Johnson, for applicant.
H. J. Bischoff, for Southern California Freight Lines
 and Southern California Freight Forwarders;
Robert C. Ellis, for California Motor Express, Ltd.,
 and California Motor Transportation Co., Ltd.;
Glenn Cantlay, for Western Truck Lines, Ltd.;
Turcotte and Goldsmith, by Jack O. Goldsmith, for
 Southern California Freight Lines, Southern
 California Freight Forwarders, Western Truck Lines,
 Ltd., Sterling Transit Company, Inc., California
 Motor Transportation Co., Inc., and California
 Motor Express, Ltd., protestants.

O P I N I O N

By Decisions Nos. 54547 (February 19, 1957) and 54901, (April 22, 1957) in Application No. 36253, Hills Transportation Co. acquired a certificate of public convenience and necessity. The certificate authorized service between San Francisco Territory on the one hand and Los Angeles Territory, Santa Ana, Anaheim, and San Diego on the other hand. Service was also authorized to most intermediate points for the transportation of split-delivery shipments only. By this application the applicant seeks to extend the split-delivery authority to those Los Angeles Basin Territory points not included.

Public hearings were held before Examiner Silverhart in San Francisco on July 15 and before Examiner Power at Los Angeles on October 17, 1957. Protestants assisted in developing the record by cross-examination and by evidence concerning their own operations.

Applicant presented four public witnesses. Their respective shipping points are Berkeley, Sunnyvale, San Francisco and San Leandro. Two were present traffic managers, one was a former traffic manager, one a plant manager. All the companies represented had used Hills' service for several years, two for more than ten years.

All the witnesses were agreed on the rapid growth of that portion of Los Angeles Basin outside of Los Angeles Territory. All were sensitive to the rate advantages to be obtained by using truckload or carload shipments with split delivery. All were agreed that only in quite recent years have their businesses in Southern California been large enough to allow extensive use of the truckload-carload plus split-delivery device. If they cannot get this rate advantage from Hills they will divert to some carrier able to extend it. All permitted and some certificated carriers can do this.

Exhibit No. 1 shows that users of split-delivery service in the Los Angeles Basin Territory control slightly more than half of applicant's southbound traffic. Applicant's president testified that he feared diversion of his present Los Angeles Territory traffic if he could not take split-delivery components into the Basin Territory. The public witnesses, as we have seen, support applicant's witness on this point.

It appears also that applicant has been unable to get consistent delivery time on interlined shipments. Applicant itself proposes to deliver in the Basin on the day following shipment. In many instances interlined shipments were delayed an entire day in Los Angeles. The rapid delivery proposed by applicant was desired by the public witnesses.

The Commission is of the opinion and finds that public convenience and necessity require the granting of the extension proposed by applicant as set forth in the following order.

Applicant is 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 modified or canceled 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 based upon the evidence adduced therein and the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Hills Transportation Co., 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 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, 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 to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That immediately following the making of the filings required by and pursuant to the provisions of paragraph (2)(a) and (b) above set forth, the Secretary of the Commission is directed to amend Radial Highway Common Carrier Permit No. 38-6397 and Highway Contract Carrier Permit No. 38-6398 by inserting in each such permit the following provision:

Publishers Motor Transport shall not engage in the transportation of property between San Francisco Territory as described in Minimum Rate Tariff No. 2, on the one hand, and Los Angeles Territory as described in Minimum Rate Tariff No. 2, Anaheim, Santa Ana and San Diego, on the other hand.

(4) The operating authority now possessed by Hills Transportation Co., a corporation, under and by virtue of Decision No. 54547, dated February 19, 1957, as amended by Decision No. 54901, dated April 22, 1957, is hereby revoked. Said revocation shall take effect simultaneously with the institution of service under the authority herein granted.

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

Dated at San Francisco, California, this 8th day of July, 1958.

E. L. Fox
President
W. L. Mitchell
Paul W. Green
W. H. Brown
Theodore Jensen
Commissioners

Hills Transportation Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities:

1. From San Francisco Territory to Los Angeles Territory, Santa Ana, Anaheim and San Diego and other points, as follows:
 - (a) Intermediate points on U.S. Highway 101 between San Luis Obispo and San Diego, including San Luis Obispo.
 - (b) Intermediate points on U.S. Highway 99 between Modesto and Los Angeles, including Modesto.
 - (c) All points in Los Angeles Basin Territory except Santa Ana, Anaheim and points also included in Los Angeles Territory, and the points enumerated in paragraphs (a) and (b) above.

The authority contained in subparagraphs (a), (b) and (c) hereof is limited to the transportation of split-delivery shipments having origin within the said San Francisco Territory and one or more component parts of which is or are destined to the points described in subparagraphs (a), (b) and (c) of this paragraph 1.

2. From San Diego, Santa Ana, Anaheim and points in Los Angeles Territory to points in San Francisco Territory and intermediate points as follows:
 - (a) Points on U.S. Highway 101 between Ventura and San Francisco, including Ventura.
 - (b) Points on U.S. Highway 99 between Bakersfield and Stockton, including Bakersfield and Stockton.
 - (c) Points on U.S. Highway 50 between Stockton and San Francisco.

The intermediate point authority herein contained is limited to the transportation of split-delivery

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shipments having origin at San Diego, Santa Ana, Anaheim and points within the said Los Angeles Territory and one or more component parts of which is or are destined to the points described in subparagraphs (a), (b) and (c) of this paragraph 2.

The terms San Francisco Territory, Los Angeles Territory and Los Angeles Basin Territory when used in this appendix mean the areas so designated herein.

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, 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.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. 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.
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.
8. Logs.

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LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwestly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southerwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; south-easterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

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Decision No. 56216, Application No. 39089.

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; south-westerly 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 waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

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 northeasterly 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.

End of Appendix A

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