

Decision No. 57567**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 W. J. POPE and V. W. POPE, doing)
 business as AETNA FREIGHT LINES for)
 a certificate of public convenience)
 and necessity as a highway common)
 carrier.)

Application No. 36083

O P I N I O N

W. J. Pope and V. W. Pope are engaged in the transportation of property in California pursuant to permits issued by this Commission. They have also been issued a certificate of public convenience and necessity to operate as a highway common carrier of general commodities between various points in the state. This certificate was granted in Decision No. 50333 in Application No. 33901 dated July 27, 1954.

Applicants seek an order authorizing them to conduct service as a highway common carrier for the transportation of general commodities between various other points throughout the state. Applicants also request that their existing highway common carrier authority be consolidated with the authority granted pursuant to the present application and that the Commission issue them an in-lieu certificate.

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

It appears that applicants possess the experience, equipment, personnel and financial resources to institute and maintain the proposed operation.

Upon consideration of the allegations of the application and the representations filed pursuant to the above-mentioned

notice, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. A public hearing is not necessary. It is the Commission's opinion that applicants' existing common carrier authority should be consolidated with the authority granted pursuant to this application and the Commission is, therefore, issuing applicants the in-lieu certificate hereinbelow set forth.

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

The Commission having considered the application and representations filed herein, now therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to W. J. Pope and V. W. Pope authorizing them 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 the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) The highway common carrier operating authority previously granted to applicants pursuant to Decision No. 50333 in Application No. 33901 dated July 27, 1954, shall be revoked contemporaneously with the making of the filings and the requirements hereinabove set forth in paragraph 2.

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

Dated at San Francisco, California, this 3rd day of November, 1958

E. Lynn Fox
President
[Signature]
[Signature]
[Signature]
Theodore Jensen
Commissioners

A. W. J. Pope and V. W. Pope, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport general commodities:

1. Between the Los Angeles Territory, as hereinbelow described in paragraph E, and points located within four miles of Whittier, on the one hand, and
 - (a) All points located on U. S. Highway 99 from and including Bakersfield to and including Sacramento, and Stockton, Visalia, Porterville, and Hanford, on the other hand.
 - (b) San Bernardino, Riverside, Pomona, Glendora, Chino, Ontario, and Colton, on the other hand.
 - (c) Norwalk, Anaheim, Santa Ana, Tustin, Ocean-side, and the San Diego Territory, as hereinbelow described in paragraph F, on the other hand.
 - (d) The San Francisco Territory, as hereinbelow described in paragraph G, on the other hand.
2. Between the San Francisco Territory, as hereinbelow described in paragraph G, on the one hand, and Modesto, Fresno, and Bakersfield, on the other hand.
3. Between San Francisco and San Leandro, on the one hand, and Stockton, on the other hand.
4. Between San Francisco, on the one hand, and Sacramento, on the other hand.

W. J. Pope and V. W. Pope shall not transport any shipments of:

- (a) 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.
- (b) 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.

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- (c) 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.
- (d) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
- (e) 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.
- (f) Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- (g) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- (h) Articles of extraordinary or unusual value.
- (i) Fruits, fresh (not cold-pack or frozen) or vegetables, fresh or green (not cold-pack or frozen), as listed under that heading in Items Nos. 41815 through 42220 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.

B. W. J. Pope and V. W. Pope by the certificate of public convenience and necessity granted in the decision noted in the margin, are further authorized to transport groceries and grocers' supplies as described in Item No. 360-H on Eighth Revised Page 38 of Minimum Rate Tariff No. 2 between San Leandro, on the one hand, and Santa Rosa, on the other hand.

C. The authorities hereinabove granted in subparagraphs A-1-(a), A-1-(b), A-1-(c), A-1-(d), A-2, A-3, A-4, and paragraph B are all separate authorities. Applicant shall not establish through routes and joint rates, charges or classifications with respect to the movement of freight between any point served under one separate authority and a second point served under another separate authority.

D. The authorities hereinabove granted do not include the right to render service to, from, or between intermediate points unless specifically authorized.

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E. The 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 Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street, south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of 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 Telegraph Road; westerly on Telegraph Road 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.

F. The San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

G. The 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.

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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.

END OF APPENDIX A

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