

Decision No. 58054**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JAKE STOKES and JOHNSON McMURPHY,)
 partners doing business as)
 SWANSON'S TRUCKING SERVICE, for a)
 certificate of public convenience)
 and necessity authorizing trans-)
 portation of property between)
 specified California points.)

Application No. 36063

In the Matter of the Application of)
 VALLEY REFRIGERATED LINES, INC., A)
 corporation, for a certificate of)
 public convenience and necessity to)
 operate as a highway common carrier)
 between San Francisco, Los Angeles,)
 Modesto, Sacramento and intermediate)
 points.)

Application No. 36363

O P I N I O N

Jake Stokes and Johnson McMurphy, doing business as Swanson's Trucking Service, acquired the business of Valley Refrigerated Lines, Inc. prior to April 29, 1955, and will be substituted as applicants in Application No. 36363.

Both companies engaged in the transportation of property in California pursuant to permits issued by this Commission.

Applicants seek an order authorizing them to conduct service as a highway common carrier for the transportation of general and special commodities through a wide area (for some commodities all) of the state.

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

Upon consideration of the allegations of the applications 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. It appears that applicants possess the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein.

Applicants are 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 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

Applications having been filed, the Commission having considered the same and the representations filed pursuant thereto,

IT IS ORDERED:

(1) That Decisions Nos. 52556, dated January 31, 1956, and 53266, dated June 19, 1956, in Application No. 36063 be and they are hereby vacated and set aside.

(2) That Jake Stokes and Johnson McMurphy be and they are substituted as applicants in Application No. 36363 in the place and stead of Valley Refrigerated Lines, Inc.

(3) That a certificate of public convenience and necessity is granted to Jake Stokes and Johnson McMurphy, 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 and over the routes as more particularly set forth in Appendices A and B attached hereto and made a part hereof.

(4) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their 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, applicants 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 San Francisco, California, this 24th day of FEBRUARY, 1959.

E. L. Fox President
W. H. D. Smith
W. H. D. Smith
Theodore J. Danner
Robert A. Danner Commissioners

Jake Stokes and Johnson McMurphy, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport:

1. General commodities between
 - (a) All points and places in Stanislaus County;
 - (b) San Francisco territory as described on Appendix B hereto attached on the one hand and all points and places in the County of Stanislaus on the other hand.
2. Commodities requiring the use of refrigeration or temperature control in all or part of the year, and canned goods, between Stanislaus County on the one hand and Los Angeles on the other hand.
3. Canned goods between Turlock and Modesto on the one hand and Stockton on the other hand.
4. Cement between Kentucky House, Permanente and San Juan Bautista on the one hand and Stanislaus County on the other hand.
5. The terms used in this order have the following meanings:
 - (a) Stanislaus County includes all points in that county including all incorporated cities therein.
 - (b) San Francisco territory means the area described on Appendix B hereto attached.
 - (c) Canned goods means all those commodities enumerated in either Item 610-O, of this Commission's Minimum Rate Tariff No. 2 or Item 210-J of Exception Sheet 1-S to Western Classification No. 76 of Pacific Southcoast Freight Bureau, agent.
 - (d) Cement means all those commodities enumerated in Item No. 40, of this Commission's Minimum Rate Tariff No. 10.

Issued by California Public Utilities Commission.

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6. Applicants shall not establish through routes or joint rates between San Francisco territory on the one hand and Los Angeles territory or Stockton on the other hand, nor between Los Angeles territory and Stockton.

Under authority granted by paragraphs 1(a) and 1(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.
4. 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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Fruit, fresh, not cold pack or frozen.
8. Vegetables, fresh, not cold pack or frozen.

Issued by California Public Utilities Commission.

Decision No. 58057, Applications Nos. 36063 and 36363.

SAN FRANCISCO TERRITORY includes all the City of San Jose and 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 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 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, Harbor 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 40 (San Pablo Avenue); northerly along U. S. Highway 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 waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.