

ORIGINAL

Decision No. 58445

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
IMPERIAL TRUCK LINES, INC., a corpora-
tion, for a certificate of public
convenience and necessity to operate
as a highway common carrier of general
commodities with some exceptions: (a)
between Los Angeles Territory and the
Coachella Valley Territory as re-
described; (b) locally between points
in the Coachella Valley Territory as
redescribed, the Imperial Valley
Territory as described in applicant's
existing certificates and presently
authorized points on U. S. Highways
80 and 99 and State Highway 111, as
an extension of existing service pur-
suant to Sections 1063-1064 of the
California Public Utilities Code.

Application No. 40550

Glanz & Russell, by Theodore W. Russell and
Richard D. Hassenplug, for applicant.
Turcotte and Goldsmith by F. W. Turcotte,
for Southern California Freight
Lines, Southern California Freight
Forwarders, James E. Potter, doing busi-
ness as Potter Trucking Company, N. D.
Williams, doing business as Desert Trans-
fer and Storage, and Benjamin S. Goldberg
and W. Earl Goldberg, copartners, doing
business as Film Transport Co. of Cali-
fornia, protestants.
A. J. Lyon for the Commission's staff.

O P I N I O N

By Decisions Nos. 54322 and 57416, Imperial Truck Lines,
Inc., is authorized (1) to transport general commodities, with
certain exceptions, between "Los Angeles Territory, on the one
hand, and Coachella Valley Territory and Imperial Valley Territory
together with Winterhaven and points on U. S. Highway 80 between
Winterhaven and Imperial Valley Territory and points on U. S. High-
way No. 99 and State Highway No. 111 between Imperial Valley and

"Coachella Valley Territories, all on the other hand", as said territories are described therein, and (2) to transport fresh vegetables between Santa Maria, Guadalupe, Oceano and Lompoc, on the one hand, and Los Angeles, on the other hand. Applicant also holds permits authorizing it to operate as a Radial Highway Common Carrier, Contract Carrier and City Carrier.

By this application authority is sought (1) to enlarge its area of service in the Coachella Valley by including in the description of said territory the northern portion of Coachella Valley, in which are situated the principal communities of Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage and Palm Desert, (2) to serve between any and all points within Coachella Valley Territory and the Imperial Valley Territory, including points and places on U. S. Highway No. 80 between Imperial Valley Territory and Winterhaven.

Public hearings were held at Palm Springs before Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced, the matter was submitted for decision.

Applicant operates 58 pieces of equipment consisting of 17 tractors, 16 pick-up and delivery trucks, and 25 trailers. It maintains terminals at Los Angeles, Indio, El Centro and Calexico. Its principal operations are between the Los Angeles area and the Coachella and Imperial valleys. It and its predecessor have been operating in said areas for many years. Its financial condition as of December 31, 1958, shows Assets of \$237,329.89, Liabilities of \$216,076.64, or a Net Worth of \$21,253.25, represented by Capital Stock Outstanding of \$51,000 and a deficit of \$29,846.75. It was

testified that applicant is now operating at a net profit which, in the month of December 1958, amounted to \$8,075.22. A substantial part of the present deficit is attributed to a 37-day strike which occurred in 1958.

Applicant does not now have a complete or well-rounded operation in the area that it is authorized to serve and it contends, and it appears from the testimony of many shipper witnesses, that the public would be better served if applicant were permitted to serve the north portion of Coachella Valley and also between all the points and places in said valley and in the Imperial Valley.

The testimony of applicant's president and its vice president and general manager shows that the present limitation restriction and conditions are not conducive to a fully adequate service for its shipper customers and the public generally. It is proposed, if authorized, to establish a terminal facility at Palm Springs from which point a six-day-per-week pick-up and delivery service will be made available to all points in the northern portion of the Coachella Valley. Early-morning deliveries are proposed and consignees will also be able to pick up their shipments throughout the day. It was testified by many witnesses that a terminal, open and manned at all times during business hours, is a necessity in the Palm Springs area because builders and contractors often need to pick up their materials and supplies, and operators of small shops and other business establishments find it necessary to call for their shipments. The evidence indicates that applicant could generate sufficient business in the Palm Springs area to justify the establishment and maintenance of the said terminal. Coachella

Valley points south of and including Palm Desert would be served out of applicant's Indio terminal. The El Centro terminal serves points in the Imperial Valley and easterly thereof. Heber, Calexico and nearby points are served out of the Calexico terminal. Twenty-five shipper witnesses testified in support of the application. This testimony shows that the quality of applicant's service is above average. It appears also that the Palm Springs area within the past several years has had a phenomenal residential and commercial growth which has resulted in an increased demand for transportation services as herein proposed.

The protestants took the position that there is available an adequate transportation service between the Los Angeles Territory and the areas proposed to be served. Only one of the protestants is authorized to serve all points in the Coachella and Imperial valleys and between points within said valleys. This carrier has extensive state-wide operating rights. However, as recently as November 1957, it closed its terminals at Palm Springs and Brawley. Several witnesses testified that they were not now getting dependable early-following-morning delivery from said carrier. Another protestant is not authorized to serve all of the northern portion of the Coachella Valley, nor can it serve between points within the Coachella Valley. A third protestant is not authorized to serve all the points in the Coachella and Imperial valleys nor between points within said valleys, and although this carrier maintains a terminal at Palm Springs, several witnesses testified that it has not been open at all times during the day. Other protestants are limited to points of service along specified routes and restricted as to local service. Except as noted, the existing carriers have been rendering a generally satisfactory service.

Applicant, for clarification, has asked that the boundaries of the Coachella Valley Territory be redescribed to read as a specified number of miles laterally from numbered highways, in place of the present description of the area as lying between named mountains. The request is for a ten-mile lateral right on either side of U. S. Highways Nos. 99 and 111. The evidence shows that a ten-mile lateral right would cover the area adequately. No evidence was presented justifying the proposed service in the Morongo Valley.

The Commission, having considered the record, is of the opinion and finds that the enlargement and improvement of applicant's service as hereinafter authorized is required by public convenience and necessity and is supported by substantial evidence. ✓✓

The application will be granted in part and denied in part by the issuance of an in lieu certificate of public convenience and necessity restating applicant's operating authority in its entirety.

Imperial Truck Lines, Inc., 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 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

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

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Imperial Truck Lines, Inc., 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, amendments to its tariffs satisfactory to the Commission.

(3) That the operating authority herein granted is in lieu of all prior highway common carrier operating authority granted by this Commission to Imperial Truck Lines, Inc., a corporation, in Decisions Nos. 54322 and 57416, and said decisions are hereby revoked effective concurrently with the establishment of service pursuant to the authority herein granted.

(4) That except as herein authorized, Application No. 40550 be, and it hereby is, denied.

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

Dated at San Francisco, California,
this 19th day of May, 1959.

I concur
Matthew J. Dooley
Matthew J. Dooley, Commissioner
Date MAY 20 1959

E. L. Fox
President
Frederic J. Jenner

Commissioners

Commissioner Everett C. McKenna, being necessarily absent, did not participate in the disposition of this proceeding.

Imperial Truck Lines, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport:

(A) General commodities between:

1. Los Angeles Territory, on the one hand, and Coachella Valley Territory and Imperial Valley Territory together with Winterhaven and points on U. S. Highway No. 80 between Winterhaven and Imperial Valley Territory and points on U. S. Highway No. 99 and State Highway No. 111 between Imperial Valley and Coachella Valley Territories, all on the other hand;
2. All points and places in the Coachella Valley Territory;
3. All points and places in the Imperial Valley Territory;
4. All points and places on U. S. Highway No. 80 between Winterhaven and Imperial Valley Territory, including Winterhaven, and all points and places on U. S. Highway No. 99 and State Highway No. 111 between Imperial Valley Territory and the Coachella Valley Territory. (Said points on said U. S. Highways Nos. 80 and 99 and State Highway No. 111 will be referred to hereafter collectively as "Highway 80, 99 and 111 Points");
5. Between Coachella Valley Territory points on the one hand and Highway 80, 99 and 111 Points and points in Imperial Valley Territory, on the other hand;

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6. Between Imperial Valley Territory points, on the one hand, and Highway 80, 99 and 111 Points on the other hand.

Los Angeles Territory, Coachella Valley Territory and Imperial Valley Territory mean all points included within the boundaries of each as delineated on Appendix B hereto attached.

- (B) Vegetables, fresh, not cold pack or frozen, between Santa Maria, Guadalupe, Oceano and Lompoc, on the one hand, and Los Angeles, on the other hand.

Service to intermediate points is not authorized under either (A) 1. or (B) above.

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. 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.

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Descriptions of territories:

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.

COACHELLA VALLEY TERRITORY includes the area on and within ten (10) miles laterally on either side of U. S. Highway No. 99 and California State Highway No. 111 between the junction of said highways approximately 5.6 miles east of Cabazon and the junction of each of said highways and the southerly boundary of Riverside County, but not including any points or places in Morongo Valley.

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IMPERIAL VALLEY TERRITORY includes that area bounded on the south by the International Boundary Line; on the east by the East High Line Canal to the point at which it intersects the main line of the Southern Pacific four miles east of Niland; on the north by the main line (transcontinental route) of Southern Pacific Company; and on the west by a series of imaginary lines drawn from Southern Pacific station of Wister to Kane Springs on U. S. Highway No. 99; thence south to Plaster City on U. S. Highway No. 80; thence south to the International Boundary Line.

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