

ORIGINAL

Decision No. 58445

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of DI SALVO TRUCKING CO., a)
corporation, for a certificate)
of public convenience and neces-)
sity to operate as a highway)
common carrier.)

Application No. 39986

SUPPLEMENTAL OPINION AND ORDER

On January 27, 1959, the Commission issued Decision No. 57913 in Application No. 39986 wherein the applicant was granted certain extensions to its certificates of public convenience and necessity to operate as a highway common carrier. In this decision, the Commission also restated all of the applicant's highway common carrier operating rights.

The applicant has filed a petition for modification wherein it requests that this decision be amended for the reason that the certificate therein granted does not include all the authority previously granted the applicant.

The petition alleges that, by Decision No. 51073, Application No. 35766, the applicant was authorized to transport general commodities between points in the San Francisco-East Bay Cartage Zone subject to certain commodity restrictions. The petition alleges that the Commission, in issuing the certificate here involved, created additional commodity restrictions relative to transportation between points in the San Francisco-East Bay Cartage Zone. An examination of the two certificates in question indicates that these allegations are correct, and Decision No. 57913 will be amended accordingly.

It is also alleged that the petitioner's existing authority relative to the description of the area encompassed within the

San Francisco Territory was not correctly restated. The petitioner maintains that its original certificate described the San Francisco Territory by reference to the description set out in the Commission's Minimum Rate Tariff No. 2. Appendix A of Decision No. 57913, on the other hand, specifically describes the territory, using the description set forth in Minimum Rate Tariff No. 2 at the time the present application was taken under submission. Subsequent to that time, the Commission amended its description of the San Francisco Territory, as set forth in Minimum Rate Tariff No. 2, by enlarging it to include additional territory. The petitioner maintains, in effect, that, under the wording of its original certificate, any amendments to the description contained in Minimum Rate Tariff No. 2 would automatically be incorporated into its certificate. It is alleged, in effect, that the petitioner is deprived of this result under the new certificate because of the specific description of the territory contained therein and that this works a modification of its previous operating rights. The petitioner requests that Decision No. 57913 be amended to re-describe the San Francisco Territory by reference to the description set forth in Minimum Rate Tariff No. 2.

It is apparent that any changes made by the Commission to the territorial descriptions set forth in Minimum Rate Tariff No. 2 are predicated on rate making considerations and not public convenience and necessity. On the other hand, any changes in a highway common carrier's certificate of public convenience and necessity must be based solely on public convenience and necessity. After full consideration of the matter, it is the Commission's conclusion that the San Francisco Territory referred to in the petitioner's original certificate is the San Francisco Territory as described in Minimum Rate Tariff No. 2 at the time that certificate was issued. Any other interpretation would result in a certificate

that could be expanded or contracted without any consideration of public convenience and necessity. It follows, therefore, that the specific description of the San Francisco Territory as set forth in Appendix A to Decision No. 57913 is the correct description of that territory insofar as petitioner's certificate of public convenience and necessity is concerned.

It is to be noted that the petitioner is not precluded by this decision from requesting that the scope of its authority be expanded by basing such a request upon a showing of public convenience and necessity.

There is

IT IS

1. That Decision No. 39986 is amended by amending Appendix A to Decision No. 39986 to read in substance as follows: "The description of territory set forth in Appendix A of this decision.

2. That in providing service pursuant to the service herein granted, Di Salvo Trucking Co. shall comply with and observe the following regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the amended certificate herein granted. By accepting this amended 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,

CORRECTION

CORRECTION

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HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

that could be expanded or contracted without any consideration of public convenience and necessity. It follows, therefore, that the specific description of the San Francisco Territory as set forth in Appendix A to Decision No. 57913 is the correct description of that territory insofar as petitioner's certificate of public convenience and necessity is concerned.

It is to be noted, however, that the petitioner is not precluded by this order from filing an application requesting that the scope of its operating rights be enlarged basing such a request upon a showing of public convenience and necessity.

Therefore, good cause appearing,

IT IS ORDERED:

1. That Decision No. 57913 in Application No. 39986 is amended by amending Appendix A thereto in the manner set forth in Appendix A of this decision.

2. That in providing service pursuant to the service herein granted, Di Salvo Trucking Co. shall comply with and observe the following regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the amended certificate herein granted. By accepting this amended 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,

amendments to its tariffs satisfactory to the Commission to reflect the authority herein granted.

This decision shall be effective 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. J. Fox
President

Theodore J. Jenner

Commissioners

A. Di Salvo Trucking Co., a corporation, by the certificate of public convenience and necessity noted in the margin, is authorized to transport general commodities locally between all points and places within the San Francisco-East Bay Cartage Zone, as hereinbelow described in paragraph C.

The authority granted by paragraph A is subject to the condition that Di Salvo Trucking Co. 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. 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.
3. Articles of extraordinary value.
4. Petroleum products in bulk in tank vehicles.

B. Di Salvo Trucking Co., by the certificate of public convenience and necessity noted in the margin, is also authorized to transport general commodities:

1. Between the San Francisco Territory as hereinbelow described in paragraph D, on the one hand, and the Los Angeles Territory as hereinbelow described in paragraph C, on the other hand.
2. Between such San Francisco Territory or such Los Angeles Territory, on the one hand, and all points located on U. S. Highway 99 between Stockton and Fresno, including Stockton, Fresno and Manteca, on the other hand.

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Decision No. 58446, Application No. 39986.

3. From such San Francisco Territory, such Los Angeles Territory, and points located on U. S. Highway 99 between Stockton and Fresno, including both Stockton and Fresno, on the one hand, and all points located within 20 miles of U. S. Highway 99 between Fresno and Bakersfield and all points located within a radius of 20 miles of Bakersfield and within a radius of 20 miles of Fresno, on the other hand.
4. From such San Francisco Territory, such Los Angeles Territory, and points located on U. S. Highway 99 between Stockton and Fresno, including both Stockton and Fresno, on the one hand, and all points located on U. S. Highway 99 between Bakersfield and such Los Angeles Territory, on the other hand.
5. The authority granted in paragraphs 3 and 4 is to be limited to the delivery of component parts of split delivery shipments having origin or destination in such Los Angeles or San Francisco Territories.

The authority granted in paragraph B is subject to the condition that Di Salvo Trucking Co. 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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Decision No. 58445, Application No. 39986.

4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers 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. Articles of extraordinary value.
9. Fruits, fresh or green (not cold pack or frozen).
10. Vegetables, fresh or green (not cold pack or frozen).

C. The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to So. Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U. S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U. S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U. S. 101 Bypass); thence leaving said boundary line and continuing easterly along the

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Decision No. 58446, Application No. 39986.

projection of last said course to its intersection with Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U. S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U. S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U. S. 40; thence northerly along Highway U. S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence

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Decision No. 58446, Application No. 39986.

southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

D. The San Francisco Territory includes the 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 waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

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Decision No. 58446, Application No. 39986.

E. The Los Angeles Territory includes the 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, 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.

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