

ORIGINALDecision No. 59361

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 POZAS BROS. TRUCKING CO., a corporation,
 for a certificate of public convenience
 and necessity to operate as a highway
 common carrier.

Application No. 39983

Handler & Baker by Marvin Handler, for applicant.
 Glanz & Russell by Theodore W. Russell, for
 California Motor Express, Ltd., California
 Motor Transport Company, Ltd., Constructors'
 Transport Company, Shippers' Express, Southern
 California Freight Lines, Southern California
 Freight Forwarders, Valley Motor Lines, Inc.,
 Valley Express Company, Western Truck Lines, Ltd.
 California Cartage Company, Inc., Griley Security
 Freight Lines, S&M Freight Lines; Norman R. Moon,
 for Highway Transport, Inc., and Highway Transport
 Express; B. E. Rowland, for Willig Freight Lines,
 protestants.

O P I N I O N

Pozas Bros. Trucking Co., a corporation, has filed an application for a certificate of public convenience and necessity to operate as a highway common carrier. Public hearings were held on this application before Examiner William L. Cole at San Francisco on April 28, April 29, June 4 and June 5, 1959. During the course of these hearings the application was amended several times. On June 5, 1959, the matter was taken under submission subject to the filing of certain late-filed exhibits. These exhibits have now been filed and the matter is ready for decision.

At the present time, the applicant is operating as a highway common carrier and as a highway permit carrier pursuant to authority granted by this Commission. Applicant's present highway common carrier authority is set forth in Decisions Nos. 53372, 54045 and 54295, issued by this Commission. This present highway

common carrier authority authorizes applicant to transport certain listed commodities between:

1. All points and places within the San Francisco Territory.
2. San Francisco Territory and Los Angeles Territory via U. S. Highways 101 and 99, and only such intermediate points as are situated along U. S. Highway 101 between Sunnyvale and Los Angeles Territory and U. S. Highway 99 between Manteca and the Los Angeles Territory. This existing highway common carrier authority does not include the right to render service between points within the Los Angeles Territory.

The applicant is requesting that this authority be extended by the granting of an additional certificate of public convenience and necessity, such that applicant can operate as a highway common carrier, transporting general commodities, with certain exceptions, between the San Francisco Territory and the San Diego Territory, including all intermediate points along the routes hereinbelow described and all points and places within the San Francisco Territory and the Los Angeles Basin Territory. The applicant is requesting that it be authorized to operate along the following routes:

1. All routes, streets and highways in the San Francisco Territory and the Los Angeles Basin Territory.
2. U. S. Highway 101 between San Francisco Territory and the San Diego Territory.
3. U. S. Highway 50 between the San Francisco Territory and the junction with State Highway 120; State Highway 120 between U. S. Highway 50 and Manteca; and U. S. Highway 99 between Manteca and the Los Angeles Basin Territory.
4. State Highway 152 between U. S. Highways 101 and 99.
5. U. S. Highway 395 between the Los Angeles Basin Territory and the San Diego Territory.
6. Connecting highways for operating convenience only.

The applicant gave as reasons for the requested certificate the fact that operations under its existing limited commodity certificate placed it at a competitive disadvantage with common carriers of general commodities and permitted carriers serving the

same points served by the applicant. Because of the limited commodity certificate, the applicant indicated that it is difficult for it to acquire new business and to fulfill the transportation requirements of its existing customers. The applicant also indicated that its customers, in addition to urging that the commodity limitation of its existing certificate be removed, have also urged that the applicant extend its certificated operation to the points requested in the new certificate.

The evidence indicates that the applicant has the financial ability to render the service which is hereinbelow authorized. As of December 31, 1958 the applicant had \$49,927.99 in its earned surplus account, and for the year 1958 the applicant realized a net profit before income taxes of \$52,766.46. The applicant operates two terminals, one located at Sunnyvale, which is its general office, and one located at Montebello. The applicant owns and operates approximately 112 pieces of equipment.

Various public witnesses testified on behalf of applicant, some of whom represented large and diversified business establishments in the San Francisco Bay Area and the Los Angeles area. All of the witnesses testified that they were presently using applicant's services and that if applicant's existing certificate were extended commoditywise and territorywise their organizations would avail themselves of the applicant's new services. The witnesses uniformly testified that they found applicant's service to be excellent. They testified that the applicant responded quickly to their calls for service, that it would serve them with the type of equipment they desired, that their experience with applicant regarding breakage and damage was excellent, and that the applicant would service the shippers on weekends and holidays.

Protestants introduced operational evidence which indicated that they are presently serving the proposed points and that they possess adequate facilities and equipment. The record does not establish an inadequacy of existing service, but it does show that applicant has been providing a much-needed and relied-upon transportation service and that it would be advantageous to applicant's customers if the more complete proposed service were to be made available.

It is the Commission's opinion that the record shows that public convenience and necessity require the granting of a certificate of public convenience and necessity to the applicant for a portion, but not all, of the authority requested in the application. It is the Commission's opinion, and it so finds and concludes, that public convenience and necessity require that applicant be authorized to transport general commodities, with certain exceptions, between:

1. All points in the San Francisco Territory.
2. The San Francisco Territory and the Los Angeles Basin Territory and intermediate points located on U. S. Highway 101.
3. The San Francisco Territory and the Los Angeles Basin Territory and intermediate points located on U. S. Highway 50 between the San Francisco Territory and the junction with State Highway 120; State Highway 120 between U. S. Highway 50 and Manteca; and U. S. Highway 99 between Manteca and the Los Angeles Basin Territory.
4. Any point authorized to be served by the above subparagraphs 1, 2 and 3, on the one hand, and any point located on State Highway 152 between U. S. Highways 101 and 99, on the other hand.

It is the Commission's opinion that the record does not establish that public convenience and necessity require the granting of the balance of the authority requested in the application.

It is the Commission's further opinion that the new rights granted the applicant by this decision should be consolidated with its existing rights for convenience. For this reason, such existing rights and new rights are consolidated in Appendix A attached hereto and made a part hereof.

In its amended application, the applicant indicated that the Commission, by Decisions Nos. 56338 and 58122, authorized the applicant as a highway common carrier to set forth, in its tariff and charge, special rates for expedited service on an hourly basis. This authority was limited to shipments moving to or from points within ten miles of Sunnyvale, California, on the one hand, and any other points the applicant was authorized to serve under its existing certificate, on the other hand. This authority was granted on a temporary basis and will expire, unless sooner canceled, changed, or extended by order of the Commission, on March 27, 1960. The applicant is requesting that this authority be extended to cover any additional points granted the applicant under this application. In the circumstances it appears, and the Commission finds, that the proposed rates are reasonable and justified by transportation conditions. The authority will be granted.

During the course of the hearings various motions were made to strike certain evidence from the record. The motions were taken under submission at that time. All such motions are hereby denied.

O R D E R

Application having been filed, a public hearing having been held and the Commission being informed in the premises,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Pozas Bros. Trucking Co., authorizing the transportation of property as a highway common carrier between the points and over the routes as set forth in Appendix A attached hereto.
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 shall file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.
3. That the certificates of public convenience and necessity presently held by Pozas Bros. Trucking Co. pursuant to Decisions Nos. 53372, 54045 and 54295 in Application No. 36069 shall be revoked concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

4. That Pozas Bros. Trucking Co. is hereby authorized to publish and file, on not less than five days' notice to the Commission and to the public, to expire on March 27, 1960, the rates and rules for Special (Expedited) Services set forth in Appendix B attached hereto and made a part hereof, and to depart from the provisions of Article XII, Section 21, of the Constitution of the State of California, and Section 460 of the Public Utilities Code, to the extent necessary to comply with this order.

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

Dated at San Francisco, California, this 8th day of December, 1959.

[Signature]
President
[Signature]
[Signature]
[Signature]
Theodore Jensen
Commissioners

A. Pozas Bros. Trucking Co., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, subject to the exceptions hereinbelow set forth, between:

1. All points in the San Francisco Territory.
2. The San Francisco Territory and the Los Angeles Basin Territory and intermediate points located on U. S. Highway 101.
3. The San Francisco Territory and the Los Angeles Basin Territory and intermediate points located on U. S. Highway 50 between the San Francisco Territory and the junction with State Highway 120; State Highway 120 between U. S. Highway 50 and Manteca; and U. S. Highway 99 between Manteca and the Los Angeles Basin Territory.
4. Any point authorized to be served by the above subparagraphs 1, 2 and 3, on the one hand, and any point located on State Highway 152 between U. S. Highways 101 and 99, on the other hand.

This authority does not include the right to render service between points within the Los Angeles Basin Territory.

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. 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 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. Fresh or green fruits, fresh or green vegetables, or mushrooms, when the point of destination of the shipment is a cannery, accumulation station, cold storage plant, precooling plant, or winery, or the empty containers used or shipped out for use in connection with such transportation.

B. The San Francisco Territory as referred to in this appendix 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 Morago 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;

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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.

C. The Los Angeles Basin Territory as referred to in this appendix 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; north-easterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; north-easterly 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; north-westerly 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; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly 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

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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, Tepeka & Santa Fe Railway Company; southwesterly 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; southeasterly 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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RATES AND RULES FOR SPECIAL (EXPEDITED) SERVICE

Upon request of shipper or consignee, expedited service requiring a special trip will be rendered by carrier and the following charges and provisions (a) to (e) will be applicable to such transportation:

<u>Rated Capacity of Equipment (Tons)</u>	<u>Rates (Cents per Hour)</u>
1-1/2	760
3-1/2	860

- (a) Minimum charge shall be the rate for one hour or the charge accruing at the class rate applicable to such shipment as provided in Sections 1 and 2 of this tariff, whichever is greater.
- (b) Time shall be computed from the time equipment departs from carrier's established terminal until it returns thereto.
- (c) Shipments shall not exceed 4,000 pounds in weight, and equipment shall be utilized by a single shipper or consignee.
- (d) Rates named in this item apply for service performed during regular working hours of 8:00 a.m. through 5:00 p.m., except Saturdays, Sundays and the following holidays: New Year's Day, Washington's Birthday, Decoration (Memorial) Day, Fourth of July, Labor Day, Admission Day, Thanksgiving Day and Christmas. When such holidays fall on Sunday, the following Monday shall be considered a holiday. For services performed at the request of the shipper or consignee at other than said regular working hours and on Saturdays, Sundays and holidays shown, an additional charge equal to the actual additional overtime cost will be made.
- (e) This item is applicable only to movements having origin or destination within ten (10) miles of Sunnyvale.

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