

ORIGINALDecision No. 59618

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
 CITY TRANSFER, INC., a corporation, for
 an in lieu certificate of public convenience and necessity as a highway common carrier of general commodities between points in a portion of the Los Angeles Basin Territory, pursuant to Sections 1063-1064 of the California Public Utilities Code.

Application No. 41517

Glanz and Russell, by R. Y. Schureman, for applicant.

Joe Araiza for Santa Fe Transportation Company and The Atchison, Topeka and Santa Fe Railway Company, protestants.

O P I N I O N

By the application herein, filed on September 25, 1959, applicant, a highway common carrier operating as such pursuant to authority from this Commission, seeks an in lieu certificate of public convenience and necessity authorizing it to transport general commodities, with exceptions, between all points and places in an area extending from the Los Angeles National Forest and the San Bernardino National Forest to the ocean, and from Yucaipa, Riverside, Corona and Laguna Beach, on the east, to the western boundary of the City of Los Angeles, on the west.

A public hearing on the application was held in Los Angeles before Examiner Kent C. Rogers on December 14, 1959, evidence was presented and the matter was submitted.

Applicant has authority, pursuant to Decision No. 54483, dated February 5, 1957, in Application No. 36273, to carry general

commodities, with exceptions, between all points in an area roughly bounded by the Pacific Ocean, Westwood Village, San Fernando, Sunland, Tujunga, Pasadena, El Monte, Whittier, Orange, Costa Mesa and Newport Beach. Granting of the requested area would extend applicant's service area west, north and east (Exhibit No. 7).

Applicant operates a public warehouse in Long Beach in addition to its highway common carrier operations. It also has unrestricted radial highway common carrier and highway contract carrier permits. It presently provides service between all points in its existing territory on a daily basis except Sundays and holidays. It proposes to provide the same service between points in the entire proposed area. It has two-way radios on its trucks which assist it in rendering twice-a-day delivery service from its dock and warehouse in Long Beach. Shipments picked up by 10 or 10:30 a.m. are afforded same-day delivery. Next-day service is rendered on shipments picked up after that time. Applicant proposes to render this same service in the proposed extended area. It presently provides service via nine routes in the certificated area. It will add three new routes to provide the extended service.

Applicant maintains its terminal and principal office in Long Beach. In addition to its trucking operations it maintains and operates at the truck terminal a public warehouse pursuant to a certificate of public convenience and necessity issued by this Commission. As a public warehouse it stores general commodities for a number of accounts which receive their goods by water through the Long Beach Harbor, as well as by rail and motor carrier. Such goods are stored in applicant's warehouse. They are then distributed over

the line of the applicant to points in its certificated territory, and over the lines of other carriers to points it does not serve as a highway common carrier. By reason of its terminal facilities in Long Beach, applicant is able to afford its shippers with same-day service to points within its certificated area, while other common carriers handling shipments to points in the proposed service area beyond applicant's service area allegedly frequently require two or three days to make delivery. Since many of the customers of applicant's warehouse patrons customarily operate on short inventories and require same-day service to market their products effectively, this delay has hampered the distribution program of the patrons of applicant to the extent that some have advised the applicant of their consideration of engaging in proprietary hauling.

At least seven of applicant's warehouse patrons also maintain goods in warehouses located in Los Angeles and other portions of the proposed and present service area. These patrons have requested that applicant afford service from such warehouses to all points in the present and proposed service area in order that they may have one carrier to meet all of their shipping requirements. Some of these parties have advised applicant that competitive marketing factors make it mandatory that they receive same-day service to all points in the proposed service area as proposed by applicant. Several manufacturers or manufacturers' representatives, and other shippers, appeared in support of the application and stated that they need a service such as proposed by applicant, whereby an order placed by 10 or 10:30 a.m. would be delivered the same day. They stated that overnight service provided by competing carriers does

not meet their demands. They had no complaints concerning other carriers except the overnight services.

Applicant is financially sound (Exhibit No. 2), and made a net profit, before income taxes, from its carrier operations of \$54,649 for the ten months ending October 31, 1959.

The protestant Santa Fe Transportation Company, an affiliate of The Atchison, Topeka and Santa Fe Railway Company, serves the majority of the points in the proposed service area. It holds itself out to provide an overnight service between points in the area. Its witness testified that it had given a same-day service as proposed by applicant, but that such service was discontinued because of lack of demand therefor. He also testified that there are sufficient carriers and that the new service would dilute the business.

The record herein shows that a substantial number of shippers desire and require a same-day service to points in applicant's proposed service area and that the existing carriers are not providing such service. It is our opinion, and we find, that public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as requested. The authority is granted on the evidence that a same-day service is required by shippers and consignees served by applicant, and applicant is advised that the extended authority may be subject to revocation if applicant fails to inaugurate, provide, and maintain a same-day pick-up and delivery service in the proposed extended service area.

Applicant's existing authority, reflected by the certificate referred to in the opinion herein, will be cancelled and an

in lieu certificate of public convenience and necessity will be issued.

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. 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 herein and the application, and the findings herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to City Transfer, 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 within the area particularly set forth in Appendix B attached hereto and made a part hereof, subject to the conditions and restrictions as set forth in Appendix A attached hereto and made a part hereof.

2. That the certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes the existing certificate of public convenience and necessity heretofore granted to City Transfer, Inc., a corporation, which certificate and operating authority is hereby cancelled and revoked concurrently with the proper acceptance of the certificate granted herein and the appropriate filing and making effective of the tariffs required thereby.

3. 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 tripli-
cate, and concurrently make effective, tariffs
satisfactory to the Commission.

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

Dated at San Francisco, California, this 1st
day of February, 1960.

Ernest All Page
President

Arthur C. Little

William F. ...

E. J. Fox

Theodore ...
Commissioners

City Transfer, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points within the area more particularly delineated in Appendix B attached hereto.

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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semiplastic 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.

Issued by California Public Utilities Commission.

Decision No. 59618, Application No. 41517.

Appendix B to Decision No. 59618

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of the southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said county boundary to a point thereon distant five miles east of the intersection of said county line and State Highway 18, thence generally southerly, southwesterly, southeasterly, and southwesterly along a line generally paralleling and distant five miles from State Highway 18, State Highway 55, U. S. Highway 101, Central Avenue in Irvine, California, and the prolongation thereof southwesterly to the Pacific Ocean, thence along the coastline of the Pacific Ocean westerly and northerly to the point of beginning.