

ORIGINAL

Decision No. 59668

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
W. J. POPE and V. W. POPE, doing)
business as AETNA FREIGHT LINES, for)
a certificate of public convenience)
and necessity as a highway common)
carrier.)

Application No. 41575

Scott Elder, for applicants.
Glanz & Russell, by Graeme Pexton, for
Constructors Transport, protestant.

O P I N I O N

Public hearings were held in this matter before Examiner Grant E. Syphers on December 3 and 4, 1959, and January 6, 1960, at Los Angeles. On these dates evidence was adduced, and on the last named date the matter was submitted.

Applicants operate as a highway common carrier, conducting operations under authority of a certificate of public convenience and necessity granted by this Commission. These operations are generally between the Los Angeles Territory, on the one hand, and the San Francisco Territory on the other, with certain specified intermediate points. Additionally, applicants have certain rights between San Francisco and San Diego, with certain intermediate points.

In the instant application, authority is requested to round out and enlarge the existing authority so as to remove the existing restrictions as to intermediate points and to enlarge the territory served in the Los Angeles, San Diego, San Francisco

and Sacramento areas. The evidence discloses that the applicants, because of present restrictions, cannot offer through rates and through routes nor can they provide split delivery service in certain areas.

The shipper witnesses who testified indicated that it would be beneficial to their respective companies to have applicants provide this additional service.

The evidence further discloses that applicants are able to provide the extended service; they have adequate equipment and terminal facilities; they have had the necessary experience, and financially their position is sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order. The ensuing order will provide for an in lieu certificate combining all of applicants' operating authority.

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

Application as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises and having made the foregoing findings,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to W. J. Pope and V. W. Pope, doing business as Aetna Freight Lines, authorizing operations 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 attached hereto and made a part hereof.

(2) 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 to the public, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That the certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by W. J. Pope and V. W. Pope, which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

(4) That all operating authority possessed by applicants as of the date of this supplemental order is hereby revoked and canceled insofar as, and to the extent that, such authority duplicates authority granted herein; that insofar as such duplication exists, the authority granted herein shall be deemed to be continuations of authority previously held.

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

Dated at San Francisco, California, this 16th day of February, 1960.

W. J. Pope
President

Ed. Mitchell

Walter Bush

E. L. Fox

Theodore Jenner
Commissioners

W. J. Pope and V. W. Pope, by the certificate of public convenience and necessity granted in the decision noted in the margin are authorized to transport general commodities:

1. Between the Los Angeles Basin Territory, as described herein, on the one hand, and:

- (a) All points located on and within 25 miles laterally of U. S. Highway No. 99 from and including a 25-mile radius of Bakersfield, to and including a 25-mile radius of Sacramento, and McClellan Air Force Base, on the other hand.
- (b) All points located on and within 10 miles laterally of State Highway 33 from its junction with U.S. Highway 99 to its junction with U.S. Highway 50, 3.0 miles east of Tracy, and all points located on and within 10 miles laterally of U.S. Highway 50 from its said junction with State Highway 33 to the San Francisco Territory, on the other hand.
- (c) All points located on and within 10 miles laterally of U.S. Highway 60 and State Highway 111 between Los Angeles Basin Territory and Palm Springs, on the other hand.
- (d) The San Diego Territory as described herein, all points located on and within 10 miles laterally of U.S. Highway 101 between Los Angeles Basin Territory and said San Diego Territory, and all points located on and within 10 miles laterally of U.S. Highway 395 between Los Angeles Basin Territory and said San Diego Territory, on the other hand.

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- (e) Benicia, Vallejo, Napa and Santa Rosa, and all points on and within 10 miles laterally of U.S. Highway 101 between San Francisco and Santa Rosa, on the other hand.
- (f) All points located on and within 5 miles laterally of the following route: Unnumbered county road from its junction with U.S. Highway 50, 3.9 miles west of Tracy to its junction with State Highway 4 northerly of Byron; State Highway 4 from said junction to its junction with U.S. Highway 40 near Hercules; U.S. Highway 40 from its said junction to San Francisco Territory, on the other hand.
- (g) All points located on and within 10 miles laterally of State Highway 4 between its junction with U.S. Highway 99 at Stockton and its junction with unnumbered county road about 2 miles northerly of Byron, on the other hand.
- (h) All points located on and within 10 miles laterally of the following routes: State Highway 152 between its junction with State Highway 33 10 miles west of Los Banos and its junction with U.S. Highway 101 at Gilroy; U.S. Highway 101 between Gilroy and Salinas; State Highway 117 between Salinas and Monterey; State Highway 1 between Carmel and Santa Cruz and State Highway 17 between Santa Cruz and the San Francisco Territory, on the other hand.
- (i) The San Francisco Territory as described herein, on the other hand.

2. Between Los Angeles Territory and other points and places in Los Angeles Basin Territory, as described herein, and locally between other points and places in Los Angeles Basin Territory.

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3. Between the San Francisco Territory, as described herein, on the one hand, and:

- (a) All points located on and within a 25-mile radius of Sacramento and all points located on and within 20 miles laterally of U.S. Highway 40 between San Francisco Territory and Sacramento, on the other hand.
- (b) All points located on and within 25 miles laterally of U.S. Highway 99 from and including Lodi, to the Los Angeles Basin Territory as described in Item 270-A, Minimum Rate Tariff No. 2, on the other hand.
- (c) The Los Angeles Basin Territory as described herein.
- (d) The San Diego Territory as described herein, all points located on and within 10 miles laterally of U.S. Highway 101 between Los Angeles Basin Territory and the San Diego Territory, and all points located on and within 10 miles laterally of U.S. Highway 395 between Los Angeles Basin Territory and San Diego Territory, on the other hand.
- (e) Benicia, Vallejo, Napa and Santa Rosa, and all points on and within 10 miles laterally of U.S. 101 between San Francisco and Santa Rosa, on the other hand.
- (f) All points located on and within 10 miles laterally of State Highway 33 from its junction with U.S. Highway 50, 3.0 miles east of Tracy to its junction with U.S. Highway 99, on the other hand.

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- (g) All points located on and within 5 miles laterally of the following routes: Unnumbered county road from its junction with U.S. Highway 50, 3.9 miles west of Tracy to its junction with State Highway 4 northerly of Byron; State Highway 4 from said junction to its junction with U.S. Highway 40 near Hercules; U.S. Highway 40 from its said junction to San Francisco Territory, on the other hand.
- (h) All points located on and within 10 miles laterally of State Highway 24 between San Francisco Territory and Sacramento, on the other hand.
- (i) All points located on and within 10 miles laterally of the following routes: State Highway 152 between its junction with State Highway 33, 10 miles west of Los Banos and its junction with U.S. Highway 101 at Gilroy; U.S. Highway 101 between Gilroy and Salinas; State Highway 117 between Salinas and Monterey; State Highway 1 between Carmel and Santa Cruz and State Highway 17 between Santa Cruz and the San Francisco Territory, on the other hand.

4. Between the San Diego Territory as described

herein, on the one hand, and:

- (a) All points located on and within 25 miles laterally of U.S. Highway 99 from and including Bakersfield and points within a 25-mile radius thereof to and including Sacramento and points within a 25-mile radius thereof and McClellan Air Force Base, on the other hand.
- (b) All points located on and within 10 miles laterally of State Highway 33 between its junction with U.S. Highway 99 and its junction with U.S. Highway 50, 3.0 miles east of Tracy and all points located on and within 10 miles laterally of U.S. Highway 50 from its said junction with State Highway 33 to the San Francisco Territory, on the other hand.

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- (c) Benicia, Vallejo, Napa and Santa Rosa, and all points on and within 10 miles laterally of U.S. Highway 101 between San Francisco and Santa Rosa, on the other hand.
- (d) All points located on and within 5 miles laterally of the following route: Unnumbered county road from its junction with U.S. Highway 50, 3.9 miles west of Tracy to its junction with State Highway 4 northerly of Byron; State Highway 4 from said junction to its junction with U.S. Highway 40 near Hercules; U.S. Highway 40 from its said junction to San Francisco Territory, on the other hand.
- (e) All points located on and within 10 miles laterally of State Highway 4 between its junction with U.S. Highway 99 at Stockton and its junction with unnumbered county road about 2 miles northerly of Byron, on the other hand.
- (f) All points located on and within 10 miles laterally of the following routes: State Highway 152 between its junction with State Highway 33 10 miles west of Los Banos and its junction with U.S. Highway 101 at Gilroy; U.S. Highway 101 between Gilroy and Salinas; State Highway 117 between Salinas and Monterey; State Highway 1 between Carmel and Santa Cruz and State Highway 17 between Santa Cruz and the San Francisco Territory, on the other hand.

5. To, from and between intermediate points on said routes, and between points on and off-route points laterally from each of the routes specified above, on the one hand, and the points on and off-route points laterally from each of the other routes, on the other hand.

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W. J. Pope and V. W. Pope shall not transport any shipments of:

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
- (e) 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.
- (f) Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- (g) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- (h) Articles of extraordinary or unusual value.

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- (i) Fruits, fresh (not cold-pack or frozen) or vegetables, fresh or green (not cold-pack or frozen), as listed under that heading in Items Nos. 41815 through 42220 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
- (j) Logs.

6. The territories referred to in this certificate are specifically described as follows:

- (a) The 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 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

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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, 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.

- (b) The San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.
- (c) 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

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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; southwestwesterly 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

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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.

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