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Decision No. <u>59742</u>

MP/NB

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LOS ANGELES CITY EXPRESS, INC., a California corporation, for a certificate of public convenience and necessity, authorizing removal of a certain restriction under its present certificate and issuance of an in lieu certificate.

Application No. 41167

Donald Murchison, for applicant.

$\underline{O P I N I O N}$

By Decision No. 53089 applicant was authorized to trans- $\frac{1}{2}$ (a) between all points within the Los Angeles Territory as described in Appendix B thereof, (b) between Los Angeles, Inglewood, Hawthorne and Pasadena, on the one hand, and Altadena, Arcadia, Monrovia, Azusa, Pomona, Claremont, Ontario, Fontana, Colton, San Bernardino, Riverside, Redlands, Banning and Corona, on the other hand, and (c) between Los Angeles and Inglewood, on the one hand, and Artesia, La Habra, Fullerton, Anaheim, Orange, Santa Ana,

L' Commodities excepted are Used Household Goods, Automobiles, Livestock, those requiring special equipment, dump truck and mixed transit items (see Appendix A, page 2, of Decision No. 53089).

^{2/} The description of said Los Angeles Territory encompasses practically the same area as the Los Angeles Territory as described in Item 270-3 of Minimum Rate Tariff No. 2.



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Huntington Beach and Laguna Beach, on the other hand. Applicant is prohibited from serving intermediate points under items (b) and (c) and may not establish through routes and joint rates as to items (a), (b) and (c).

By this application authority is sought to consolidate its present operating authority (1) by consolidating the Los Angeles Territory with the City of Los Angeles area and (2) by consolidating its operations between said areas to the outlying points it is now authorized to serve, as set forth in (a), (b) and (c) hereinabove.

The application is not opposed although one carrier filed a written protest but did not appear at the hearing.

A public hearing was held on December 9, 1959, in Los Angeles before Examiner Mark V. Chiesa. Evidence having been adduced, the matter was submitted for decision.

The evidence of record shows that applicant's proposal would result in an integrated operation of the points and places which applicant is now authorized to serve and would be in the best interests of the shipping public. For example, applicant may now transport shipments between Los Angeles and named points in the socalled "Kite" area, such as San Bernardino, Riverside and Redlands, etc., and also between Los Angeles and named points in Orange County, such as Fullerton, Anaheim, Santa Ana and others but cannot ship between Santa Ana and San Bernardino without charging a combination of the two rates due to the present restriction as hereinabove set forth. This puts applicant at a disadvantage with other carriers for some of the business of his regular customers which applicant would otherwise have if it could quote the same rates. The

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record also shows that applicant's request to consolidate the Los Angeles Territory and the City of Los Angeles area is justified and in the best interests of the shipping public as the City makes up a major portion of the Los Angeles Territory and would result in material advantages to both carrier and shipper. Applicant's president testified that some of applicant's business has been lost to contract and other carriers because of the "double rate" (combination of rates). Two important accounts, one in Gardena and one in San Fernando, were recently lost to competing carriers because of the restriction. It was estimated that as much as a fifty percent decline in business will result unless the relief sought is granted. Shipper witnesses substantiated said testimony.

Applicant maintains terminals in Los Angeles and Banning, employs 56 persons, owns and uses 59 pieces of equipment, and operates five days per week between the hours of 7 a.m. to 7 p.m.

Its financial condition as of June 30, 1959, shows total assets of \$100,484.48, liabilities of \$35,222.65, and a net worth of \$65,261.83, represented by capital stock outstanding, \$50,000, and surplus of \$15,261.83. Net profit for the first six months of the year were \$13,816.28.

The Commission having considered the matter is of the opinion and finds that public convenience and necessity require that applicant be authorized to establish and operate a highway common carrier transportation service as hereinafter set forth. An in lieu certificate will be granted for the purpose of clarification in place of applicant's present operating authority which will be cancelled.

Los Angeles City Express, Inc., is hereby placed on notice that operative rights, as such, do not constitute a class of property

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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.

ORDER

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Los Angeles City Express, 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 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

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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, 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 of a highway common carrier heretofore granted to or acquired by Los Angeles City Express, Inc., 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.

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

	Dated at	San Francisco	_, California, this 29th
day of	Februa	<u> </u>	
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Consideration Everett C. McKenge, being necessarily absent. Ald not perticipate in the disposition of this proceeding.

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Appendix A

LOS ANGELES CITY EXPRESS, INC. Original page 1 a corporation

Los Angeles City Express, Inc., a corporation, 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 and places within the Los Angeles Territory as more particularly described in Appendix B hereof;
- (2) between all points and places within said Los Angeles Territory and Altadena, Arcadia, Monrovia, Azusa, Pomona, Claremont, Ontario, Fontana, Colton, San Bernardino, Riverside, Redlands, Banning, Corona, Artesia, La Habra, Fullerton, Anaheim, Orange, Santa Ana, Huntington Beach and Laguna Beach, and between any of said points.

The authority set forth in paragraph (2) above does not include the right to render service to, from or between intermediate points.

Applicant shall not transport any shipments of:

 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.

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Appendix A

LOS ANGELES CITY EXPRESS, INC. Original page 2 a corporation

- (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 refrigerated 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.

End of Appendix A

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Appendix B

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LOS ANGELES CITY EXPRESS, INC. Original page 1 a corporation

The Los Angeles Territory referred to in paragraphs (1) and (2) of Appendix A hereof is all that area embraced by the following boundaries:

> On the West by the city limits of the City of Los Angeles; on the North by State Highway No. 118 and U. S. Highway No. 66, to and including the City of Pasadena; on the East by State Highway No. 19 to Lower Azusa Road; thence easterly along Lower Azusa Road and the West Bank of the San Gabriel River to Beverly Boulevard; thence Southwesterly on Beverly Boulevard to Painter Avenue in the City of Whittier; thence Southerly on Painter Avenue to State Highway No. 26; thence Westerly along State Highway No. 26 to the West Bank of San Gabriel River; thence Southerly along the West Bank of San Gabriel River to Imperial Highway; thence Westerly on Imperial Highway to State Highway No. 19; thence Southerly along State Highway No. 19; thence at Ximeno Street; thence Southerly along Ximeno Street and its prolongation to the Pacific Ocean; and on the South by the Pacific Ocean.

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