

Decision No. 59824

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
H. B. JOHNSTON, JR., an individual,
doing business as CITIZEN'S WAREHOUSE,
for an in lieu certificate of public
convenience and necessity as a highway
common carrier of general commodities
between points in the Los Angeles Basin
Territory and between said Territory
and San Diego serving intermediate
points, pursuant to Sections 1063-1064
of the California Public Utilities Code.

Application No. 41380

Glanz & Russell, by Arthur H. Glanz,
for applicant.

O P I N I O N

By Decisions Nos. 54047 and 54145 applicant was authorized to operate as a highway common carrier for the transportation of general commodities, subject to the usual exceptions, (1) between Los Angeles and Vernon, on the one hand, and San Diego and Chula Vista, on the other hand, (2) between Los Angeles and Riverside, and (3) between all points within the Los Angeles Territory as described in Appendix B of Decision No. 54047.^{1/}

By this application authority is sought to enlarge the Los Angeles service area to include portions of Los Angeles, San Bernardino, Riverside and Orange Counties (hereinafter referred to

1/ Said Los Angeles Territory is substantially the same as the Los Angeles Territory as described in Item 270-3 of Minimum Rate Tariff No. 2.

as the Los Angeles Basin Territory), to enlarge the San Diego service area to include the area described as the San Diego Territory in Item 271-3 of Minimum Rate Tariff No. 2, and to serve the points intermediate of said Basin Territory and San Diego Territory along U. S. Highway 101, and five miles laterally thereof, which are situated south of and including San Onofre. Applicant does not propose to serve between any two points both of which are within the San Diego Territory, or along U. S. Highway 101 south of San Onofre, or within the lateral area, or within the Basin Territory easterly of California State Highway No. 39. On the other hand, it is proposed to serve between all points lying within the said Basin Territory westerly of said Highway No. 39.

The application is not protested.

A public hearing was held in Los Angeles on January 27, 1960, before Examiner Mark V. Chiesa. Evidence, oral and documentary, was adduced and the matter was submitted for decision.

In addition to the highway common carrier operating authority, hereinabove mentioned, applicant also has been granted permits authorizing him to operate as a Radial Highway Common Carrier, City Carrier, Highway Contract Carrier, and Household Goods Carrier, and has operated a public utility warehouse business since 1934 (Decision No. 27155).^{2/}

^{2/} The Radial and City Permits were issued in 1935, the Contract Permit in 1943, and the Household Goods Permit in 1952. The respective numbers of said permits are: 19-17, 39948, 16518 and 45132.

As indicated, applicant has been engaged in the warehouse and transportation businesses in the Los Angeles area for many years. The record shows that his business is well managed and that the public is offered a high-type service. Applicant maintains terminal facilities at Los Angeles and San Diego, employs 35 persons and operates 46 pieces of equipment. His public warehouse has been located at the same address, 1001 East First Street in Los Angeles since 1934. Applicant testified that his present facilities are adequate to take care of any new business and that additional equipment and/or facilities will be provided if needed. His financial condition as of November 30, 1959, was as follows: Total Assets, \$260,030.07; Total Liabilities, \$115,977.51; Net Worth, \$144,052.56; represented by Invested Capital, \$100,963.32 and Profit of \$43,089.24. For the first eleven months of 1959, his net operating income was \$49,455.00.

Applicant presently is a party to Western Motor Tariff Bureau, Inc. Local, Joint and Proportional Freight Tariff No. 18-B, Cal. P.U.C. No. 17, J. L. Beeler, Agent, Series, in the publication of his rates and charges with respect to the general commodities which he presently transports between those points which he now serves as a highway common carrier. He proposes to establish rates substantially in conformity with rates presently published in the above described tariff.

Shipper witnesses, representing large concerns with customers throughout the areas proposed to be served, testified that they are using applicant's various services, as now authorized, and have need for his services as proposed. Their testimony indi-

cates that applicant has been rendering a satisfactory transportation service to the same shipper customers for many years, and that public convenience and necessity require the establishment and operation of the highway common carrier services herein requested. We so find and the application will be granted. In the interests of clarity, applicant will be granted an in lieu certificate defining his new operating authority, and the highway common carrier certificates heretofore granted will be revoked.

H. B. Johnston, Jr. 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 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

A public hearing having been held, 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 be, and it hereby is, granted to H. B. Johnston, Jr., doing business as Citizen's Warehouse, authorizing him to operate as a high-

way 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 Appendices A, B and C 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 he will be required, among other things, to file annual reports of his 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 triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That all other highway common carrier operative rights hitherto possessed by applicant are cancelled simultaneously with

the effective date of the tariff filings required by and pursuant to the provisions of paragraph (2) hereof.

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

Dated at San Francisco, California, this 22nd day of March, 1960.

Ernest Allbright
President
John E. L. L. L.
William R. L. L.
John E. L. L.
Theresa J. L. L.
Commissioners

H. B. Johnston, Jr., an individual, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities:

- (1) Between all points and places within the Los Angeles Basin Territory, as set forth in Appendix B hereof, except that applicant shall not transport shipments between points both of which are located within that portion of said Los Angeles Basin Territory, which lies east of State Highway No. 39.
- (2) Between the said Los Angeles Basin Territory, on the one hand, and on the other hand, the San Diego Territory, as set forth in Appendix C hereof; over U. S. Highways Nos. 101 and 395, serving all intermediate points on U. S. Highway 101, and all points laterally within five miles of that portion of U. S. Highway No. 101 extending from the Los Angeles Basin Territory to the San Diego Territory, including Camp Pendleton.

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.

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Decision No. 5982A, Application No. 41380.

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. 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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 59821, Application No. 41380.

The Los Angeles Basin Territory referred to in Appendix A of the decision is described as follows:

LOS ANGELES BASIN TERRITORY includes the 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; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly 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; northwesterly 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 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, Topeka & Santa Fe Railway Company; southwest-erly along said right of way to Washington Avenue; southerly along

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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.

End of Appendix B

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Decision No. 59821, Application No. 41380.

The San Diego Territory referred to in Appendix A of this decision is described as follows:

SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways Nos. 101-E and 101-W (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.

End of Appendix C

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