

ORIGINAL

Decision No. 60065

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DI SALVO TRUCKING CO., a corpora-)
 tion, for a certificate of public) Application No. 41336
 convenience and necessity to operate)
 as a highway common carrier.)

Frank Loughren, for applicant.
R. C. Ellis, for California Motor Express,
 Ltd., et al.; F. S. Kohles, for Valley
 Motor Lines, Inc., et al.; Ray L.
Harris and Charles S. Cobb, Jr., for
 Delta Lines, Inc.; Robert W. Walker and
Richard K. Knowlton, for Santa Fe Trans-
 portation Co. et al., protestants.

O P I N I O N

This application was filed on July 23 and amended on October 28, 1959. Public hearings were held before Examiner John Power in San Francisco and Los Angeles and the matter was submitted on December 1, 1959, subject to the receipt of late-filed exhibits. These have been received and the matter is ready for decision.

Di Salvo is a certificated carrier of general commodities. It has an operating right in the San Francisco-East Bay Cartage Zone. Another operating right authorizes service between San Francisco and Los Angeles territories with intermediate service to points on U. S. Highway 99 from Stockton to Fresno. From Fresno to Bakersfield applicant has authority only to carry components of split-delivery shipments but has lateral rights of 20 miles.

By the instant application Di Salvo seeks to enlarge its operating authority to include local service in the San Francisco Bay-Delta area, and within the Los Angeles Basin Territory.

Authority is also requested to serve along U. S. Highway 99 with various lateral rights between Sacramento and Los Angeles and in the coastal region from San Francisco to the Mexican Border. .

Applicant presented a number of public witnesses in support of its request. These witnesses supported the application. They had utilized applicant's service in the past and were therefore quite familiar with it. They had found it suited to their needs. They especially emphasized convenient pickups and provision of equipment of types needed. They anticipated benefits to themselves if the application is granted.

Applicant's equipment, personnel, finances and experience are adequate to support the extension requested. Applicant's terminals are not adequate at present. Therefore applicant proposes to establish four more, and possibly a fifth, which, with present facilities, are expected to be adequate at the outset.

The protestants participated actively in developing the record, especially by cross-examining applicant's witnesses. They also described their own services. Evidence was presented concerning protestants' facilities, personnel and equipment available in the requested areas. Protestants also briefly mentioned the fact that services other than their own are available.

The Commission finds that public convenience and necessity require that applicant's operating rights be extended as provided by the following order.

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 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

Public hearings having been held and based upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Di Salvo Trucking Co., 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 and over the routes particularly set forth in Appendices A, B and C attached hereto and made a part hereof.

2. 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 and insurance requirements of the Commission's General Order No. 100A. 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 Orders Nos. 99 and 100A, 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. The certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing highway common carrier operating authority and certificates of public convenience and necessity heretofore granted to or acquired by Di Salvo Trucking Co. The operative rights created by Decision No. 58446, dated May 19, 1959, in Application No. 39986 are 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 9th day of May, 1960.

Cecil A. Ray
President
Walter J. Doherty
Walter J. Doherty
Walter J. Doherty
Theodore J. Doherty
Commissioners

Di Salvo Trucking Co., by the certificate of public convenience and necessity noted in the margin, is authorized to transport general commodities from, to and between all points and places located:

- A.1. On or within five miles of U. S. Highway No. 40 between San Francisco and Sacramento including San Francisco and Sacramento;
2. On or within five miles of U. S. Highway No. 50 and U. S. Highway No. 99 between Oakland and Sacramento, including both Oakland and Sacramento;
3. On or within ten miles of State Highway No. 4 from its intersection with U. S. Highway No. 40 near Pinole to and including Stockton;
4. On or within ten miles of unnumbered County Road between State Highway 4 and U. S. Highway 50 via Byron and Bethany;
5. On or within ten miles of State Highway No. 24 between Oakland and Sacramento, including both Oakland and Sacramento.
6. On State Highway No. 21 from its intersection with State Highway No. 4 near Pacheco, California, to and including its intersection with U. S. Highway No. 50 near Dublin;
7. On or within five miles of U. S. Highway No. 99 between Stockton and Fresno, including both Stockton and Fresno;
8. On or within twenty miles of U. S. Highway No. 99 between Fresno and Bakersfield, including both Fresno and Bakersfield;
9. On or within five miles of U. S. Highway No. 99 between Bakersfield and Los Angeles;

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10. On or within ten miles of State Highway No. 1 between San Francisco and San Luis Obispo;
 11. On or within ten miles of U. S. Highways Nos. 101 and 101A between San Francisco and Los Angeles;
 12. Within a twenty-mile radius of Sacramento;
 13. Within a twenty-mile radius of Fresno;
 14. Within a twenty-mile radius of Bakersfield;
 15. Within the San Francisco Territory as described in Appendix B, attached hereto;
 16. Within the Los Angeles Basin Territory as that territory is described in Appendix C attached hereto.
 17. On State Highway No. 152 between Gilroy and Califa;
 18. On or within three miles of State Highway No. 33 between its intersection with U. S. Highway No. 50 near Tracy and Maricopa;
 19. On State Highway No. 166 between Maricopa and its intersection with U. S. Highway No. 99 near Wheeler Ridge.
- B. Between all points and places enumerated in Paragraph A (subparagraphs 1 through 18), on the one hand, and all points located on or within ten miles laterally of U. S. Highways Nos. 101, 101A and 395 between Los Angeles Basin Territory and San Ysidro, on the other hand.

C. Service may be performed between certificated points via any and all streets and highways.

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D. The authority herein granted is subject to the condition that Di Salvo Trucking Co. 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. 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. Articles of extraordinary value.
8. Fruits, fresh or green (not cold pack or frozen).
9. Vegetables, fresh or green (not cold pack or frozen).

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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 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, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; 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; north-easterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwest 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, 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; westerly along 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; southwest 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.

LOS ANGELES BASIN TERRITORY 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; 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; 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.