

Decision No. 60454**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WEST TRANSPORTATION, INC., a corpo-)
 ration, for an expansion and)
 restatement of its certificate of)
 public convenience and necessity)
 authorizing highway common carrier)
 service.)

Application No. 41778

Daniel W. Baker and George M. Carr, for applicant.
Bruce R. Geernaert, for Sheedy Drayage Co.,
 Merchants Express of California, and W. G. Thomas
 Drayage Co.; Frank Loughran, for Belyea Truck Co.,
 Warren Transportation Company, Bigge Drayage Co.,
 and Wilkins Drayage; and Arthur Glanz, for
 Western Truck Lines, Victorville-Barstow Truck
 Line, and Desert Express; protestants.
Russell Bevans, for Draymen's Association of
 San Francisco, interested party.

O P I N I O N

In this application filed December 21, 1959, and amended March 10, 1960, West Transportation, Inc., seeks to simplify its commodity description and extend its geographical coverage to more nearly correspond with the needs of its shippers, and to permit split deliveries for its customers under its filed tariffs. The territory applied for extends generally from Red Bluff and Novato, on the north, to the Mexican border.

Public hearings were held before Examiner Rowe in Oakland on March 24, in Los Angeles on April 7 and in San Francisco on May 9, 1960. The protests of the carriers appearing at the northern hearings were directed principally to preventing applicant from registering any certificate granted with the Interstate Commerce Commission. The matter was duly submitted upon briefs now filed.

In order to clearly reveal the problem facing applicant with regard to its commodity description we quote from applicant's brief as follows:

"A. Commodity Limitation

"The description of the commodities applicant is authorized to transport under its existing certificate has been the cause of many operating problems. In excess of 2200 different items can be transported as a highway common carrier and the ones not included in its certificate can be hauled under its permits. Thus, a portion of its operation is highway common carriage in character and the balance is performed under its permits, depending upon the commodities and points involved. Applicant has attempted to familiarize its employees with the scope of these operating rights and the service that can be performed thereunder but, generally, without success. Even the publishers of the applicant's tariff have found it difficult at times to determine if certain shipments are included in the highway common carrier authority. (Sheet 5, Exhibit No.2) Many shipments are picked up by drivers when making their regular calls and the commodities transported cannot be determined until the freight bills are turned in to the office. It is often discovered, after freight has been delivered, that doubt exists as to whether the movements were authorized under the certificate. (Sheet 5, Exhibit No. 2) Furthermore, new drivers are constantly being employed due to fluctuations in the volume of traffic. Obviously, it is impossible to properly apprise and educate these employees of the limitations on the operating rights when such restrictions are difficult for experts to determine even after a careful and thorough study of same.

"Due to these problems and in order to meet the demands of its customers for service, applicant was required to file the instant application. When it submitted evidence of its 1953 operation, upon which showing its present certificate was granted, applicant disclosed that it was regularly hauling a large number of commodities and others less frequently. It was unfortunate that a general commodity authority was not issued at that time, for the character of the service then rendered clearly warranted the granting of same. Today, the revenues are about three times as great as they were in 1953 and such increased business has greatly magnified this unsatisfactory condition.

"Various public witnesses supported the application, some of whom represent large and diversified businesses having shipments throughout the involved area. Twenty-nine shippers, fourteen appearing as witnesses at the hearings and fifteen whose testimony was incorporated in the record by stipulation, supported the granting of the requested authority. These businesses represented deal in a large number of commodities which are shipped between both certificated and permitted points. The witness for the Pacific Gas & Electric Company testified that his company handles about 6,000 different commodities and ships to over 120 sub-stations and storage yards throughout California. It has been using the applicant on a daily basis and frequently multiple pickups are made in a single day. Butte Gas and Oil Co. requires the transportation of hundreds of different types of oil, well and drilling equipment, materials and supplies. Rheem Manufacturing Company handles commodities which are both certificated and permitted in character. This same condition exists with respect to most of the supporting shippers.

"The establishment of new classifications for commodities which are germane to those applicant can transport under its certificate has created additional problems. An example of this situation was described by the witness for Soapstone Duct Company, a customer for whom applicant transports between 100 and 400 tons of freight per week. Most of the commodities being hauled for this shipper are within the certificated authority. However, it recently added certain plastic articles and lace stone to its line of products, neither of which can applicant transport as a highway common carrier. The latter is a new item that did not exist when West Transportation, Inc., was issued its certificate and which only recently received a classification. Because it is germane to other products shipped by Soapstone Duct Company, lace stone may or may not have been included in the certificated authority but upon its being classified was automatically excluded therefrom. Said shipper utilizes applicant as its primary carrier and desires to be able to tender to it all shipments. The witness for Pacific Gas & Electric Company also described new items in which it deals which have not as yet been classified.

"Thus, the existing certificate permits the transportation of, literally, over two thousand commodities but yet precludes applicant from affording most shippers a complete highway common carrier service. The recommendation of the Commission's staff which is cited in Policy Decision No. 50448 (53 Cal. P.U.C. 366, 372), dated August 17, 1954, is particularly pertinent in the instant proceeding, which was as follows:

'Certificates of public convenience and necessity, when granted, should be broad enough in scope to provide a well-rounded and economical operation to meet the needs of commerce.'

"West Transportation, Inc., as the record proves, is rendering an excellent service for many substantial and basic industries in California. These businesses have grown with the mushrooming economy of this state and their transportation requirements have likewise expanded. Clearly, such needs should be provided for and the applicant should be authorized to render the type of service which they obviously require. The Commission has consistently favorably considered similar requests for certificate expansions. These decisions have enabled carriers to establish more economical and efficient operations with which to more satisfactorily fulfill the requirements of the shipping public."

Upon a careful consideration of the evidence of record, the Commission is of the opinion and finds that public convenience and necessity require that the applicant be granted the highway common carrier rights as provided in the following order; but, that in order to protect the desert area service rendered by Victorville-Barstow Truck Line, applicant will be restricted against rendering service along U. S. Highway 66 between and including Cajon Junction and Barstow.

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

Application therefor having been filed, public hearing having been held and based upon the above findings,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to West Transportation, Inc., authorizing it to operate as a highway common carrier as defined in 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 authority 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 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 highway common carrier operative rights issued to West Transportation, Inc., by Decision No. 52893, dated April 17, 1956, in Application No. 36218, are hereby revoked, such 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 28th day of July, 1960.

 President

 Commissioners

Everett C. McKeag
Commissioner Theodore H. Jenney, being necessarily absent, did not participate in the disposition of this proceeding.

West Transportation, Inc., a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities, except uncrated used household goods, livestock and fresh fruits and vegetables:

- I. Between all points in the following territories via any and all highways, streets and roads:
 1. Points in the San Francisco Territory.
 2. Points in the Los Angeles Basin Territory.
- II. Between all points on or within 20 miles of the following routes:
 1. U.S. Highways 101, 101 By-Pass and 101-A between Novato and the Mexican Border Line, inclusive.
 2. State Highway 48 between junction with U.S. Highway 101, near Ignacio, and U.S. Highway 40, inclusive.
 3. State Highway 37 between Sears Point and Napa, inclusive.
 4. State Highway 29 between U.S. Highway 40 and Napa, inclusive.
 5. State Highway 12 between Schellville and U.S. Highway 50, near Lodi, inclusive.
 6. U.S. Highway 40 between San Francisco and the California-Nevada State Line, inclusive.
 7. U.S. Highway 40-A between Davis Junction and the California-Nevada State Line, inclusive.
 8. State Highway 24 between Oakland and Oroville, inclusive.
 9. State Highway 89 between U.S. Highway 40-A, near Blairsden, and Tahoe Valley, inclusive.
 10. U.S. Highways 99, 99-E and 99-W between Red Bluff and the Mexican Border Line, inclusive.
 11. State Highway 20 between Williams and junction with U.S. Highway 40, near Cisco.
 12. State Highway 49 between Placerville and Sattley, inclusive.

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13. U.S. Highway 50 between San Francisco and the California-Nevada State Line, inclusive.
14. State Highway 4 between junction with U.S. Highway 40, near Pinole, and Stockton, inclusive.
15. State Highway 33 between junction with U.S. Highway 50, near Tracy, and junction with U.S. Highway 99, at Mettler.
16. State Highway 152 between Watsonville and Califa, inclusive.
17. State Highway 132 between Vernalis and Modesto, inclusive.
18. State Highway 120 between junction with U.S. Highway 50, near Lathrop, and Manteca, inclusive.
19. State Highway 399 between Ventura and Greenfield, inclusive.
20. U.S. Highway 466 between Paso Robles and the California-Nevada State Line, inclusive.
21. State Highway 198 between junction with State Highway 33, near Coalinga, and junction with State Highway 65, near Exeter, inclusive.
22. State Highway 65 between junction with State Highway 198, near Exeter, and U.S. Highway 99, near Bakersfield.
23. U.S. Highway 395 between San Diego and the California-Nevada State Line, inclusive.
24. U.S. Highway 6 between Los Angeles and the California-Nevada State Line, inclusive.
25. U.S. Highway 66 between Los Angeles and the California-Arizona State Line, inclusive.
26. U.S. Highway 60 between Los Angeles and the California-Arizona State Line, inclusive.

The service authorized herein is restricted against the transportation of any property to or from Cajon Junction and Barstow and intermediate points along U. S. Highway 66.

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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; southwestery 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; southwestery 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.

APPENDIX C TO DECISION NO. 60454

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.