

**ORIGINAL**Decision No. 60611

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 MERRIFIELD TRUCKING COMPANY, a cor- )  
 poration, for a certificate of )  
 public convenience and necessity to )  
 operate as a highway common carrier: )  
 (a) Of commodities generally, with )  
 named exceptions, between certain )  
 points as to which applicant is )  
 presently authorized to transport )  
 specifically named commodities; )  
 (b) Of specifically named food )  
 products, certain related articles, )  
 and commodities requiring tempera- )  
 ture control between (i) Sacramento )  
 and Stockton and intermediate )  
 points, (ii) Sacramento and points )  
 in the San Francisco Territory as )  
 described, and intermediate points )  
 via U. S. Highways 40 and 50, (iii) )  
 Goleta and points in the San )  
 Francisco Territory as described )  
 serving intermediate points on + )  
 U. S. Highway 101 and (iv) the off- )  
 route points of Hood, Courtland, )  
 Watsonville, Santa Cruz, and )  
 Castroville; and (c) Of specifi- )  
 cally named food products and other )  
 related articles and commodities )  
 requiring temperature control )  
 between the points and places )  
 described in (b) above and certain )  
 presently authorized points, as )  
 extensions of applicant's present )  
 services pursuant to Section 1063, )  
 Public Utilities Code. )

Application No. 41901

Theodore W. Russell, of Glanz & Russell,  
 for applicant.  
Willard S. Johnson, for J. Christenson Co.;  
 Ted Peters Trucking Co., Inc.; Karlson  
 Bros. Trucking Service; and Hills  
 Transportation Co., protestants.

O P I N I O N

By this application filed on February 1, 1960, Merrifield  
 Trucking Company, a California corporation, requests authority to

extend and enlarge its certificate of public convenience and necessity as a highway common carrier in order to transport general commodities, with certain exceptions, from and between various points in the Los Angeles Area, San Joaquin Valley Area, San Diego Area and San Francisco Territory. In addition, the carrier also requests authority to carry certain specialized commodities requiring temperature control between approximately the same points.

Public hearings on this matter were held before Examiner James F. Mastoris in Los Angeles on April 1, 1960; and in San Francisco on June 8 and 30, 1960, at which time evidence was presented by the parties and the matter duly submitted.

Current Operating Authority

Presently this carrier operates under a certificate of public convenience and necessity authorizing:

(a) General Commodity transportation in the Los Angeles Area.

(b) Certain food products and commodities requiring temperature control between the Los Angeles Area and the San Francisco Territory and all points and places in Tulare County, Fresno, Sanger, Bakersfield, Goleta and San Diego.

(c) Certain food products and commodities requiring temperature control between the San Francisco Territory and San Diego.

(d) Certain specialized commodities between various points in the San Joaquin Valley, on the one hand, and the Los Angeles Area, as well as points within the San Francisco Territory, and points and places in Tulare County, Goleta and San Diego, on the other hand.

Shipper Evidence in Support of Application

Evidence in support of this application indicated that increased highway common carrier operative rights are necessary in order to satisfy the growing public demand for the specialized service offered by this carrier into the proposed destination territories. Applicant has specialized in the transportation of freight for those shippers engaged in the food processing and distributing industry and related industries. In addition, this carrier has also specialized for a number of years in the carriage of property requiring temperature control consisting of both frozen and chilled merchandise. In recent years the volume, variety and quantity of the aforementioned products have increased to such an extent that the applicant has been forced to expand its operations in order to accommodate the shipping public's demands for this particular type of transportation. Applicant alleged, and offered proof in support thereof, that general commodity authorization is also necessary in order to enable it to meet and satisfy the integrated shipping requirements of the customers it regularly serves between the points it is now authorized to serve. In view of the expansion and growth of the frozen food industry and allied businesses throughout the State of California, it is alleged, and shipper witnesses were presented in support of the applicant's allegations, that this carrier's authority should be extended in order to cover the points requested for general commodities as well as the limited commodities in which it specializes. Said shipper witnesses declared that their shipping requirements are such that they demand that the food products, freight requiring temperature control, and related articles be shipped both between points which applicant can now serve and points which applicant proposes to

serve, either as part of the same shipment with split pickups and deliveries or as separate shipments moving at the same time. In addition, the growth and expansion in population and economic activity in the State of California has caused food processing and packaging plants to relocate their facilities at points and places at which food processing was not a major business until very recently. It is contended that transportation service for this type of industry must follow this relocation.

#### Protest

Evidence was produced by the protestants in opposition to the authority requested to the effect:

(1) That the granting of the certificate requested would have an adverse effect on their business in the Northern California Area in that available traffic will be diluted;

(2) That they are now rendering an adequate and satisfactory service in the Northern California Area in the commodities heretofore mentioned and in the specialized transportation heretofore referred to and thus the proposal would constitute a wasteful duplication of existing truck service; and

(3) That they can accommodate all of the available general commodity traffic as well as any increased temperature control commodities that may be offered in Northern California points.

#### Findings and Conclusions

Upon consideration of all the allegations of the application and the evidence adduced at the hearings, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. We find and conclude that there is a present and future need for the extension herein granted and that this carrier possesses the

experience and special equipment necessary to extend its certificate and maintain the operations to be authorized.

We further find that the applicant possesses the financial ability to support the proposed service and the resources to acquire such additional equipment as may be required to conduct such operations. The requested relief will be granted by adding new and revised pages to Appendix A of applicant's present certificate established in Decision No. 53026, Application No. 39732, in order to incorporate the additional authority granted in the order that follows. Appendix A, therefore, as set forth in the following order will encompass the entire certificate, as revised, of the Merrifield Trucking Company.

Merrifield Trucking Company 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 evidence adduced therein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Merrifield Trucking Company authorizing it to operate as

a highway common carrier as that term is defined in Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes set forth in Appendix A attached hereto and made a part hereof and subject to the conditions and restrictions of said Appendix A. Operating rights presently described in applicant's current Appendix A as established and set forth in Decision No. 58026, in Application No. 39732, are hereby amended by incorporating First Revised Pages 1 through 5 in revision of Original Pages 1 through 5, said amendment to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

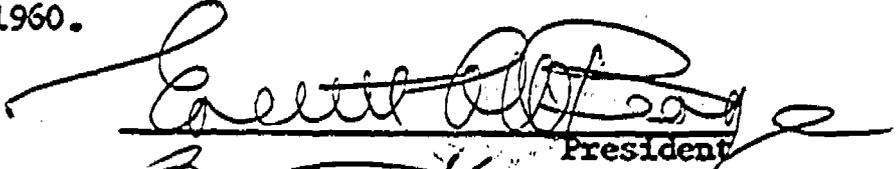
2. That in providing service pursuant to the certificate herein granted applicant shall comply with and observe the following service regulations:

- (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 and insurance requirements of the Commission's General Order No. 100-A. 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 100-A, 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.

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

Dated at San Francisco, California, this 23<sup>rd</sup> day of August, 1960.

  
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President

  
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Commissioners

Peter E. Mitchell  
Commissioner ~~Theodore H. Jenner~~, being necessarily absent, did not participate in the disposition of this proceeding.



## 2. (continued)

STARCH, as listed under that heading in Items Nos. 87755 through 87780 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

FRUITS and VEGETABLES, FRESH, as listed under that heading in Items Nos. 41815 through 42220 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

BAKERY GOODS INCLUDING WAFFLES, FROZEN and PIES O/T FROZEN, as listed under that heading in Items Nos. 9745 through 9820 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

CANDY or CONFECTIONERY, as listed under that heading in Items Nos. 20050 through 20200 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

CASINGS (SAUSAGE or MEAT PRODUCTS), as listed under that heading in Items Nos. 21360 through 21400 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

COCOANUTS (also COCOANUT MILK), as listed under that heading in Item No. 28780 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

DAIRY PRODUCTS, INCLUDING BUTTER, MARGARINE, EGGS, MILK and ICE CREAM, as listed under that heading in Items Nos. 31770 through 31930 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

FEED, ANIMAL or POULTRY (INCLUDING FISH FOOD, FROZEN) as listed under that heading in Items Nos. 37030 through 37691 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

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## 2. (continued)

FISH, FRESH or FROZEN, as listed under that heading in Items Nos. 38505 through 38575 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

FISH LIVERS, FROZEN, as listed under that heading in Item No. 38600 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

FRUIT or BERRIES (in solution) as listed under that heading in Item No. 41550 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

FRUIT PEEL, or PULP - DRIED, as listed under that heading in Item No. 41555 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

NUTS, EDIBLE, as listed under that heading in Items Nos. 70970 through 71090 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

OILS, not named in other more specific groups as listed under that heading in Items Nos. 72305 through 72695 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

MISCELLANEOUS COMMODITIES, VIZ.: Lime, chlorinated; Sodium Chloride (common salt); Ice.

COMMODITIES, other than herein specified, requiring temperature control.

Between:

- (a) San Diego, Bakersfield, Sanger, Fresno, Turlock, Patterson, Ceres, Modesto, Stockton, points in Tulare County, points in the Los Angeles Area, as described in Appendix C, and points in the San Francisco Territory, as described in Appendix B, on the one hand, and, on the other hand (i) Sacramento and points on Highways 40 and 50 intermediate between

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Sacramento and the San Francisco Territory, (ii) points on U. S. Highway 101 intermediate between Santa Barbara and the San Francisco Territory, (iii) points on U. S. Highway 99 intermediate between Stockton and Sacramento, and (iv) Hood, Courtland, Watsonville, Castroville, and Santa Cruz; and

- (b) Locally between all points and places described in (i), (ii), (iii) and (iv) of subparagraph (a) above.
3. SUGAR, except Liquid Sugar; between Carlton, Betteravia, Spreckels, on the one hand, and the points and places described in Appendix C, on the other hand.
4. FRUITS and VEGETABLES, FRESH or GREEN, COLD PACK or FROZEN; and JUICE, CITRUS FRUIT; and JUICE, CITRUS FRUIT, FROZEN, and also

PERISHABLE COMMODITIES REQUIRING REFRIGERATION, between:

Stockton, Modesto, Ceres, Patterson, Turlock, Fresno, Sanger and Bakersfield, and between each of said points, on the one hand, and all points and places within the area described in Appendix C, the San Francisco Territory as described in Appendix B, all points and places in Tulare County, Goleta and San Diego, on the other hand.

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The authority hereinabove set forth in paragraphs 1, 2, 3 and 4 does not include the right to render service to, from or between intermediate points, nor the right to 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 semiplastic 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.

End of Appendix A

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