

ORIGINAL

60773

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of SWIFT TRANSPORTATION COMPANY, a corporation, for an in lieu certificate of public convenience and necessity to operate as a highway common carrier for the transportation of property and to extend its present certificate of public convenience and necessity.

Application No. 42271

Donald Murchison, attorney, for applicant.

O P I N I O N

By the application herein, filed on May 17, 1960, and amended by amendments filed on July 22, 1960, and July 29, 1960, applicant, a highway common carrier operating as such pursuant to authority from this Commission, seeks an in lieu certificate of public convenience and necessity authorizing it to transport general commodities, with exceptions:

1. To, from and between all points and places located in the Los Angeles Basin Territory as described in Item 270-A of Minimum Rate Tariff No. 2.
2. Between the Los Angeles Basin Territory, on the one hand, and Banning, California, on the other hand, via U. S. Highway 99, serving all intermediate points between Redlands, California, on the one hand, and Banning, California, on the other hand.

A public hearing on the application was held in Los Angeles before Examiner Kent C. Rogers on July 26, 1960, evidence

was presented and the matter was submitted subject to the filing of an amendment to the application. This amendment has been filed and the matter is ready for decision. Copies of the application were served on all common carriers serving the area and said carriers were notified of the hearing. There were no protests.

On June 12, 1956, applicant was given authority as a highway common carrier to transport general commodities, with exceptions, to, from and between points and places in the Los Angeles Territory and Orange County (Decision No. 53224, dated June 12, 1956, in Application No. 36094).

On August 18, 1959, applicant acquired the authority of Suburban Freight Lines, Inc., to carry certain specified commodities between Los Angeles, on the one hand, and Pomona, Ontario, Riverside, and San Bernardino, on the other hand, without serving intermediate points (Decision No. 52771, dated March 13, 1956, in Application No. 36165; Decision No. 58889, dated August 18, 1959, in Application No. 41371).

On August 18, 1959, applicant also acquired the authority of Ralph S. Newcomer, doing business as Real Transportation Company, to carry general commodities, with exceptions, via designated routes between the Los Angeles Drayage Area, on the one hand, and points east of said area in San Bernardino and Riverside counties, on the other hand, restricted to shipments weighing 500 pounds, or less, unless said shipments originated in Pomona and were designated to points east of Garvey Avenue (Decision No. 48394, dated March 24, 1953, in Application No. 31769; Decision No. 58266, dated April 14, 1959,

in Application No. 40863; and Decision No. 58902, dated August 18, 1959, in Application No. 41375).

Applicant also has Radial Highway Common Carrier Permit No. 19-40023 and City Carrier Permit No. 19-40024.

Applicant has approximately 98 pieces of equipment (Exhibit No. 7). It is financially sound (Exhibit No. 5), and earned a net income of \$4645 during the five months ending May 31, 1960 (Exhibit No. 6).

Applicant proposes to provide a daily service on call except Saturday, Sunday, and holidays. Service will be provided on Saturday on request.

Applicant proposes to establish rates in the service area in conformity with those set forth in Western Motor Tariff Bureau, Inc., Local Joint Proportional Freight Tariff No. 17-A, California P.U.C. No. 33, Elmer Ahl, Agent Series.

The president of the company, William Simonoff, and his brother, Samuel Simonoff, own all of the stock of the corporation. The applicant has a 3-acre 90 percent-surfaced terminal in Bell, California, on which it has a 60- by 100-foot platform capable of handling 40 trucks at one time, together with an office and machine shop. The regular trucks are used for scheduled pickups for regular customers, and other equipment is used to pick up shipments for non-regular customers. Less-than-truckload shipments generally move over the dock and are afforded next-day service. Large or truckload shipments are not handled over the dock.

Applicant called as witnesses the representatives of three shippers, viz.: an oil company with places of business in

Los Angeles and Terminal Island, a chlorine distributor with an office in South Gate, and an importer of building materials, metals and chemicals distributing such products out of a warehouse in Long Beach. These witnesses testified that their companies need and use applicant's services wherever possible and desire to use its services to and from all points in the proposed service area to which they ship.

Applicant had 14 additional witnesses available who allegedly would have testified to the same effect.

Upon the record herein it is our opinion, and we find and conclude, that public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as a highway common carrier as requested and as specified in Appendix A attached hereto. Applicant's existing authority, reflected in the certificates referred to in the opinion herein, will be canceled and an in lieu certificate of public convenience and necessity will be issued.

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. 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

An application having been filed, a public hearing having been held thereon, the Commission having found that public convenience and necessity require that the requested authority be granted, and based on said finding,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is granted to Swift Transportation Company, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes as more particularly set forth in Appendices A and 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 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 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 supercedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Swift Transportation Company, a corporation, which certificates 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 20th day of SEPTEMBER, 1960.

Ernest W. ...
President

John E. ...

Michael ...

E. ...

Theodore ...
Commissioners

SWIFT TRANSPORTATION COMPANY
a corporation

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Appendix A

Swift Transportation Company, a corporation, by the decision noted in the margin, is authorized to transport general commodities:

- a. To, from and between all points and places located in the Los Angeles Basin Territory as described in Appendix B attached hereto.
- b. Between the Los Angeles Basin Territory, on the one hand, and Banning, California, on the other hand, via U. S. Highway No. 99, serving all intermediate points between Redlands, California, on the one hand, and Banning, California, on the other hand.

The authority granted in subparagraph b above does not include the right to render local service between points between Redlands and Banning.

Applicant shall not transport any shipments of:

- a. 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.
- b. 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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Appendix A

- c. 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.
- d. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
- e. 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.
- f. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- g. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- h. Logs.

End of Appendix A

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LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point of 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; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestly 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; southwestly 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.

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