

and territories as follows:

- (a) The San Diego Territory as described in Item No. 271-3 of Minimum Rate Tariff No. 2, via U. S. Highways Nos. 101 and 395, serving all intermediate points on U. S. Highway No. 101 and all points laterally within five miles of the portion of U. S. Highway No. 101 extending from the Los Angeles Basin Area to the San Diego Territory, including Camp Pendleton;
- (b) Santa Barbara, via U. S. Highways Nos. 101 and 101 Alternate, serving all intermediate points on said highways and points laterally within five miles of said highways between the Los Angeles Basin Area and Santa Barbara;
- (c) Indio, via U. S. Highway No. 99 and California Highway No. 111, serving all intermediate points on said highways and all points laterally within five miles of said highways between the Los Angeles Basin Area and Indio.

Public hearings on the application were held in Los Angeles before Examiner Kent C. Rogers on April 5, 6, and 7, and May 18 and 19, 1960, evidence was presented, and the matter was submitted subject to the filing of concurrent briefs. These briefs were filed on August 15, 1960, and the matter is ready for decision.

By Decision No. 53995, as amended by Decisions Nos. 54466 and 54589, all on Application No. 36357, R. J. Stadler, doing business as S & M Transfer & Storage Co., was given authority as a highway common carrier to transport general commodities, with exceptions, between all points in a "Los Angeles Basin Area," which area is bounded roughly by Woodland Hills on the west, the Los Angeles National Forest and the San Bernardino National Forest on the north, the cities or communities of

Yucaipa, Riverside, Allessandro, Arlington, Corona, Orange, Santa Ana, Costa Mesa and Newport Beach on the east, and the Pacific Ocean on the south.

This area is designated by applicant as the "Los Angeles Basin Area."

By Decision No. 55056, dated June 4, 1957, in Application No. 39061, S & M Freight Lines, a corporation, applicant herein, was authorized to acquire the rights of R. J. Stadler, referred to supra.

The requested authority would permit applicant to extend service between the so-called Los Angeles Basin Area on the one hand, and Santa Barbara, Indio, and the San Diego Territory and intermediate points on the other hand, with no local service in the extended areas, e.g., no service between Oceanside and La Jolla or between Santa Barbara and Ventura.

Applicant has radial highway common carrier, highway contract carrier and city carrier permits issued by this Commission. The trucking equipment is all standard stake- or van-type. The pick-up trucks have 16-foot bodies and one is equipped with a power-lift gate. The trailers are vans and stakes, with six of them being 35 feet in body length and the balance having 24-foot bodies.

Service in the extended area will be overnight five days a week. For convenience, service will be provided on Saturdays on demand.

Applicant has its main terminal in Los Angeles consisting of one acre of land and a 16-truck dock. It also has available

terminals at Pomona, Redondo Beach, and Torrance, which are call-in stations. It does not yet have a terminal in San Diego, but proposes to lease facilities there with which to render service in the San Diego territory.

In rendering service at present applicant has approximately 11 regular pick-up and delivery routes and sends additional trucks on call to non-regular customers.

If applicant secures the authority it has requested it will serve Santa Barbara and Indio with equipment which will operate from Los Angeles. A peddler-type operation is proposed on these trips. Service to San Diego will be rendered by two different trips daily. The merchandise destined for the San Diego Territory proper will move directly from the Los Angeles terminal to the San Diego terminal and will there be transferred to delivery trucks for the San Diego Territory points. Shipments from Los Angeles destined for points intermediate between the San Diego Territory and the Los Angeles Basin Area will be handled by a truck which will commence deliveries at Santa Ana.

Applicant is a party to Western Tariff Bureau, Inc., Local, Joint and Proportional Freight Tariff No. 18-B, Cal. P.U.C. No. 17, J. L. Beeler, Agent, Series, and proposes to establish rates substantially in conformity with the rates published in said tariff.

Applicant is financially sound and earned a net income of \$10,307 for the year 1959 (Exhibit No. 4).

In addition to its vice president-general manager, 28 witnesses testified in behalf of the applicant. Seven of these

had places of business in North Hollywood, seven in Van Nuys, one in Sawtelle, one in Lynwood, six in Los Angeles, one in Manhattan Beach, two in Azusa, two in West Los Angeles, and one in El Segundo. The witnesses represented manufacturing or distributing concerns. Their products include chemicals, ceramics, plastics, bicycles, lamps, machinery, furniture and plumbing supplies. Most of the witnesses had shipments moving to various points in all three areas involved. Each company presently uses the services of applicant in the certificated area and generally uses applicant's services in connection with other carriers to points beyond the certificated service area. Several have limited dock facilities and desire applicant's services to the extended areas in order to avoid congestion at the dock. Others use several carriers but claim to have better pickups from the applicant than from other carriers. All of the witnesses were familiar with the applicant's services and the services of some or all of the other carriers serving the areas, and each desires to use the services of the applicant.

Each of the following protestants introduced evidence in its behalf during the proceeding: Auto Purchasing Agency, Charles A. Carr and James H. Carr, doing business as Carr Brothers & Oxnard Trucking Service, Marine Transport Company, Mueller Truck Co., Santa Fe Transportation Company, and Atchison, Topeka & Santa Fe Railway Company. The evidence included resumés of the equipment, terminal facilities, and operations of the protestants and referred to the operating authority thereof.

It is claimed that there is no need for an additional carrier, and that the granting of the authority will dilute the business of the protestants.

Applicant has authority to serve to, from and between all points in the Los Angeles Basin Area. The record herein shows that a substantial number of shippers desire that applicant's services be extended to include Santa Barbara, Indio, and San Diego, and intermediate points. The evidence presented herein shows, and we find that public convenience and necessity require the granting of the requested authority as set out in the order herein.

Applicant's operating authorities, 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 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

An application having been filed, public hearings 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 S & M Freight Lines, 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 Appendix A 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 supersedes all existing certificates heretofore granted to or acquired by S & M Freight Lines, a corporation, which certificates, insofar as they grant operating rights, 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 4th day of October, 1960.

C. W. ...
President

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...

...

Theodore J. ...
Commissioners

S & M Freight Lines, a corporation, by the certificate of public convenience and necessity granted in the margin, is authorized to transport general commodities, with exceptions, as hereinafter noted:

1. Between all points and places in the Los Angeles Basin Area, as described in Appendix B.
2. Between points in the Los Angeles Basin Area, on the one hand, and, on the other hand,
 - (a) The San Diego Territory as described in Appendix C attached hereto, via U. S. Highway No. 101 serving all intermediate points on U. S. Highway No. 101 and all points laterally within five miles of the portion of U. S. Highway No. 101 extending from the Los Angeles Basin Area to the San Diego Territory, including Camp Pendleton.
 - (b) Santa Barbara, via U. S. Highways Nos. 101 and 101 Alternate, serving all intermediate points on said highways and all points laterally within five miles of said highways between the Los Angeles Basin Area and Santa Barbara.
 - (c) Indio, via U. S. Highway No. 99 and California Highway No. 111, serving all intermediate points on said highways and all points laterally within five miles of said highways between the Los Angeles Basin Area and Indio.

Applicant is authorized to operate along U. S. Highway 395 as an alternate route between the Los Angeles Basin Area and the San Diego Territory serving no intermediate points on U. S. Highway 395.

Issued by California Public Utilities Commission.

Decision No. 6CS42, Application No. 41858.

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.
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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. 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.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 60842, Application No. 41858.

Los Angeles Basin Area includes the area embraced by the following boundary:

Beginning at the intersection of State Highway No. 27 and U. S. Highway No. 101, alternate; northerly on State Highway No. 27 to U. S. Highway No. 101; westerly on U. S. Highway No. 101 to a point where the city limits of the City of Los Angeles is intersected thereby; northerly and easterly along said city limits of Los Angeles to a point from which an imaginary line drawn easterly intersects State Highway No. 7; easterly from such point along such imaginary line to State Highway No. 7; southerly on State Highway No. 7 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; thence 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 and including the City of Redlands; westerly along U. S. Highway No. 99 to U. S. Highway No. 395; southerly along U. S. Highway No. 395 to Alessandro; westerly along unnamed county road to Arlington; southwestwesterly along State Highway No. 18 to U. S. Highway No. 91; westerly along U. S. Highway No. 91 to State Highway No. 55; southerly along State Highway No. 55 to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, alternate; thence northerly along an imaginary line to point of beginning.

Included within the territory immediately above described are all places within the corporate limits of any city which is bisected by the State and U. S. Highways and county roads constituting the boundary of such territory between Yucaipa and Newport Beach.

End of Appendix B

Issued by the California Public Utilities Commission.

Decision No. 60842, Application No. 41858.

San Diego Territory includes the area embraced by the following boundary:

That area as 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 the point of beginning.

End of Appendix C

Issued by the California Public Utilities Commission.

Decision No. 60842, Application No. 41858.