

ORIGINAL

Decision No. 60845

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
WESTERN TRUCK LINES, LTD., a cor-  
poration, for a certificate of  
public convenience and necessity  
to operate as a highway common  
carrier for the transportation of  
property as herein described.

Application No. 41435

Glanz, Russell and Schureman, by Theodore W.  
Russell and William R. Pippin, attorneys,  
and Lloyd R. Guerra, for applicant.  
Robert W. Walker, Matthew H. Witteman and Richard K.  
Knowlton, attorneys, and Joe Araiza, for The  
Atchison, Topeka and Santa Fe Railway Com-  
pany and Santa Fe Transportation Company;  
Milton Hallen for Standard Truck Lines,  
protestants.  
E. J. Langhofer for San Diego Chamber of Commerce,  
interested party.

O P I N I O N

By this application, as amended, Western Truck Lines seeks authority to extend and enlarge its present certificated common carrier operations, generally, between points and places in Los Angeles, San Bernardino, Riverside and Orange Counties, on the one hand, and the San Diego Territory, on the other hand, all as more specifically set forth in the application. Applicant does not propose local service between points in the Los Angeles Basin area or between points in the San Diego Territory.

Applicant is one of the major interstate highway common carriers now operating in California, Arizona and New Mexico. It

also owns and operates the Gillette Motor Transport, Inc., a corporation, with interstate operating authority between El Paso, Dallas and Houston, Texas, and Kansas City, Missouri.

Applicant's present intrastate highway common carrier authority consists, generally, of service between the Los Angeles Territory and the San Francisco Territory, and other points in Northern California; also between the San Francisco Territory and points easterly thereof to the Nevada border; also between the Los Angeles Territory and points easterly thereof to the Arizona border, all as more specifically set forth in numerous decisions heretofore granted by this Commission.

The application is protested by The Atchison, Topeka and Santa Fe Railway Company and its trucking subsidiary, Santa Fe Transportation Company, which companies now operate both rail and truck transportation services between many of the points and places herein sought to be served by applicant.

Protestant Standard Truck Lines is a certificated carrier of garments on hangers, generally, between the Los Angeles and San Diego areas.

Public hearings were held at Los Angeles on June 1 and 2 and at San Diego on July 12, 1960, before Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced the matter was submitted for decision.

The Commission's findings of fact and conclusions are as hereinafter set forth.

Applicant is a leading motor carrier of freight. At present approximately 25 percent of its business consists of

California intrastate transportation either as a highway common or permitted carrier. It operates a total of approximately 810 pieces of equipment and has terminals located at various points along its authorized intrastate and interstate routes. In the areas herein proposed to be served there will be terminals at Los Angeles, Guasti (to be moved from Riverside), and San Diego. Approximately 520 pieces of equipment will be available at said terminals. Applicant uses leased-wire teletype and has approximately 75 radio-equipped trucks in service. It proposes an overnight service five days per week, with pick-up and delivery service between 8 a.m. and 5 p.m. Some Northern California points would receive following-afternoon or second-morning delivery. Rates, rules and regulations will be established as provided in Highway Carriers Tariff No. 2. For the four months ending April 30, 1960, applicant's total revenues and expenses were \$4,470,159 and \$4,022,301. Its net income, after income taxes, for said period was \$271,737. Its financial condition as of April 30, 1960, was as follows:

Total Assets	\$6,849,527	
Total Liabilities	<u>4,227,361</u>	
Net Worth		\$2,622,166
Represented by		
Capital Stock Out-		
standing	\$ 188,000	
Surplus	<u>2,434,166</u>	
		\$2,622,166

Applicant called thirty-two shipper witnesses to testify in support of the application. Nearly all testified that they have been employing applicant for some of their transportation needs; that the service is satisfactory and that they would also use applicant for shipments to points and places as herein proposed. Some shippers want to limit the number of carriers by using those

with broad operating authority, others objected to having their shipments interlined, and some who now use applicant's service on interstate shipments would also like to use it on intrastate movements. Other reasons were also given indicating that the proposed service is needed and would be convenient.

In support of its protest, Santa Fe Transportation Company presented evidence of its extensive operating authority, covering much of the area now served and proposed to be served by applicant, and its facilities, contending that it and other carriers now render an adequate transportation service between the Los Angeles and San Diego areas and between Northern California and San Diego. Accordingly, protestant's view is that it and other carriers would be adversely affected by any additional diversion of traffic. Substantial evidence is lacking that applicant would divert a material amount of traffic from protestant. Only a few of the witnesses testified that they are now using protestant's service or that they have any intention of transferring their business from protestant to applicant. However, several testified that, because of convenience, economy or better service, they would give applicant some business which is now going to other carriers.

Standard Truck Lines' objection was on the ground that it specializes in "garment on hangers" transportation between Los Angeles and San Diego, and that no showing was made that any additional service of this type is required. The record supports this protestant's position.

The Commission having considered the matter and being fully advised in the premises, finds and concludes that public convenience and necessity require that applicant be authorized to operate as a highway common carrier in the manner and upon the conditions as hereinafter set forth.

Western Truck Lines, Ltd., 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

A public hearing having been held, the Commission being fully advised in the premises and finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Western Truck Lines, Ltd., 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 as more particularly set forth in Appendices A, B and C attached hereto and made a part hereof, subject to the conditions and restrictions contained therein.

(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.

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.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

Western Truck Lines, Ltd., by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, except

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.
7. Articles of extraordinary value.
8. Garments, clothing and wearing apparel when transported on garment hangers.

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Between

- (a) The Los Angeles Territory as described in Appendix B hereof;
- (b) Points and places on U. S. Highway 66, between Los Angeles and San Bernardino, including San Bernardino;
- (c) Points and places on U. S. Highways 60, 70 and 99 between Los Angeles and Redlands, including Redlands;
- (d) Points and places on U. S. Highway 60, between Los Angeles and Riverside, including Riverside;
- (e) Points and places on U. S. Highway 101 between Los Angeles and Santa Ana, including Santa Ana;
- (f) Points and places on State Highway 18, between Anaheim and Riverside; and

including service to and from points laterally within three miles of above specified routes, on the one hand,

and, on the other hand, the San Diego Territory, as described in Appendix C hereof, over U. S. Highways 101, 101 Alternate and 395.

Except as heretofore authorized applicant shall not transport any commodities as a highway common carrier between any two points both of which are within any of the areas described in subparagraphs (a), (b), (c), (d), (e) and (f) hereof or are within the San Diego Territory.

End of Appendix A

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DESCRIPTION OF "LOS ANGELES TERRITORY"

The area embraced by the following boundary: Beginning at the intersection of the westerly boundary of the City of Los Angeles and the shore line of the Pacific Ocean, thence along the westerly and northerly boundary of the City of Los Angeles to its junction with State Highway 118 east of Tujunga, then continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to the point of beginning.

End of Appendix B

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DESCRIPTION OF "SAN DIEGO TERRITORY"

San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U. S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

End of Appendix C

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