

ORIGINALDecision No. 61092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DOUDELL TRUCKING COMPANY, a corpo-
ration, for an expansion and
restatement of its certificate of
public convenience and necessity
authorizing highway common carrier
service.

Application No. 41636

Marvin Handler, for applicant.
Bruce R. Geernaert, of Berol and Geernaert, for
Merchants Express, Inc., of California; J. A. Nevis
Trucking, Inc.; California Motor Transport, Ltd.;
Fortier Transportation Company; Santa Fe Transporta-
tion Company, and The Atchison, Topeka and Santa Fe
Railway Company; Matthew H. Witteman, for The
Atchison, Topeka and Santa Fe Railway Company; and
Santa Fe Transportation Co.; Theodore W. Russell,
for Western Truck Lines, Ltd.; and Desert Express,
protestants.

O P I N I O N

In this application filed on November 4, 1959 and amended
May 4, 1960, Doudell Trucking Company, a California corporation,
requests authority to extend and enlarge its highway common carrier
operating rights in order to transport general commodities, with
certain exceptions, between various cities in the San Francisco
Territory, Los Angeles Basin Territory, San Diego Territory, San
Joaquin Valley points and certain southern California desert points.

Public hearings on this application were held before
Examiner James F. Mastoris in San Francisco and Los Angeles on
March 9, 10, 11 and May 5, 6, 17 and 26, 1960, respectively, at
which time evidence was presented by the applicant and by the
various protestants who participated in said hearings.

Present Operating Authority

Under the present operating rights this carrier possesses authority permitting general commodity carriage in the San Francisco Territory. In addition to its certificate, the applicant holds radial highway common carrier, highway contract carrier and city carrier permits.

Shipper Evidence and Support of Application

The applicant presented oral and documentary evidence in justification for the authorization sought, which evidence can be summarized as follows:

1. Many shipper witnesses testified that their businesses have in the past and will in the future be benefited as the result of the proximity of applicant's terminals to their plants, factories and facilities in San Jose, Pittsburg, Fresno, and Los Angeles.
2. Because of the aforementioned proximity of applicant's terminals immediate and efficient pickup service has been given in the past and is expected to be provided in the future. Many of these witnesses testified that they require immediate pickup following the request for transportation services.
3. Other shippers claim dock congestion at their places of business will be decreased if the number of carriers making pickup and delivery is reduced.
4. There was substantial testimony to the effect that split delivery rate advantages not now available to certain shippers would become so if the requested destination territory is added to this carrier's operative rights.
5. Others testified that present rating difficulties involving mixed certificated and permitted shipments will be substantially eliminated with the grant of additional authority.

6. The majority of witnesses testified that future requirements in the proposed territories are expected to be similar to past transportation needs and as a result they preferred to continue with the applicant in view of the previous dependable service given to them.

7. The shippers, as well as the applicant, were also concerned with applicant's doubtful legal status as a result of its increasing frequency of operations between the same points. Consequently, enlarged operative rights were alleged to be essential in order to maintain operations and to continue service in the future without fear of violating the law.

8. A substantial number of shipper witnesses declared that this carrier is familiar with the particular requirements of their transportation needs, particularly with respect to special handling on loading and unloading operations and carriage of heavy and bulky equipment. These witnesses stated that the applicant's employees and procedures were such that special transportation problems were handled with speed and efficiency.

9. Representatives from various business organizations claimed that they preferred a single line operation as contrasted with interline service because certain commodities shipped are susceptible to breakage, and occasionally spoilage, on rehandling on an interline arrangement.

10. Other witnesses were particularly well satisfied with the carrier's early morning deliveries on its present operation and desired that such service be provided in the future without interruption.

11. Testimony was presented to the effect that the publication of a tariff will be of advantage to shippers in evaluating the cost of transportation.

12. Evidence was produced to the effect that registration of the requested certificate with the Interstate Commerce Commission as to the California segments of interstate operations will be an operational advantage in that the carrier can provide a complete and integrated service to California customers.

13. Applicant's president testified, that in the event the certificate is granted, the applicant's total statewide operations will come within the safety regulations of this Commission. Regulation and supervision of the carrier by the Commission on safety matters was alleged to be a definite benefit, not only to the applicant but to its shippers.

14. Moreover, applicant's president claimed that certain intangible benefits resulted from highway common carrier status. It appears many large and well-established business organizations prefer to transport their merchandise by highway common carriers.

15. Further testimony was received to the effect that this carrier's large fleet of flatbed trailers provides an efficient and needed service to many shippers transporting the type of freight requiring the use of such equipment. This is particularly evident in the transportation of exceptionally heavy articles and equipment.

16. Additional evidence was produced to the effect that the carrier's proposal to provide same-day, Saturday, Sunday and emergency operations will be of considerable benefit to those business organizations which had in the past and will in the future have use for such service. Shipper witnesses claimed that the demand for this type of service has been increasing throughout the State with the result that they have been requesting such specialized operations with greater frequency. Applicant claims that accommodating its customers with this service stimulates additional traffic and in most instances creates new business for its shippers.

17. Furthermore, additional testimony was received that the applicant's drivers, who, in most instances, make the pickup and delivery, also perform the line-haul transportation. Consequently, it is contended that this service provides the shippers with a driver who is intimately familiar with the freight, any special handling problems, and other peculiar operational characteristics of the shipment in question.

Protest

In opposition to this application, evidence was presented by the protestants, the various truck lines in northern and southern California which conduct operations in the proposed destination territory, to the effect:

1. That a grant of a certificate for general commodities for such a broad statewide operation would have an adverse and severely disruptive effect on their business.
2. That they are now rendering an adequate and satisfactory service in the territories requested by the applicant and that the proposal would constitute an unnecessary duplication of existing truck service. It was claimed that the enlarged statewide certificate requested by the applicant would dilute the traffic now moving from and between the points and areas in question with the result that the financial structure of all the protestants would be weakened.
3. That the proposed service of the applicant, especially with regard to certain specialized operations will not be compensatory.
4. That this particular applicant has in the past specialized largely in the transportation of heavy equipment and has contended in a prior proceeding before this Commission^{1/} that the type of

^{1/} Decision No. 58246, Application No. 39276. Draymens Association of San Francisco.

service offered by the heavy hauling carriers was not adaptable to a published tariff.

5. That Doudell Trucking Company's financial position is unsound. It is contended that the \$90,000 loss in 1958 and the \$73,000 loss in 1959 demonstrate that the applicant is not financially capable of maintaining the broad and widespread operations proposed.

6. That the carrier is not sufficiently experienced in less-than-truckload transportation to qualify for the authority requested. It was pointed out, as above indicated, that the carrier's past operations have been, to a great extent, in heavy hauling carriage.

7. All protestants claim that they can handle the available traffic as well as new business that may be offered in the future.

Discussion

The public accountant of the applicant stated the loss suffered during the last two years was due to the truckers' strike in 1958 and the steel strike in 1959, both of which occurred during the heavy shipping season. In 1959 the applicant showed a profit of \$40,000 in August; by the end of the year, due to the strike, the applicant had lost \$113,000, or better than \$28,000 a month, for August through December. Further testimony showed a profitable operation during the first few months of 1960.

Mr. Doudell owns all of the stock in Tankways and R.J.D. Equipment Co. The applicant owes sizable sums of money to these corporations, but all are under the control of Mr. Doudell. The latter's personal assets and liabilities are set out in Exhibit No. 15. He appears to be completely solvent and worth approximately one half million.

Upon consideration of all of the factors involved, we find that the financial structure of the applicant appears to be adequate to support the applicant's present or future service.

Findings and Conclusions

Upon consideration of all of 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. We find and conclude that there is a present and prospective need for the proposed extension and that the applicant possesses the experience, equipment, and financial stability to extend its certificate and maintain the operations to be authorized. We further find that the applicant possesses the resources to acquire such additional equipment as may be required.

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 having been filed, public hearings having been held and based upon the above findings,

IT IS ORDERED:

1. That an in-lieu certificate of public convenience and necessity is hereby granted to Doudell Trucking Company authorizing the establishment and operation of service 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 Appendices A, B, and C attached hereto and made a part hereof, and subject to the conditions and restrictions of Appendix A.

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 one hundred twenty 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 operating authority granted by Decision No. 53238 dated June 12, 1956, in Application No. 36342, is hereby revoked and canceled, such cancellation to become effective concurrently with the effective date of 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 22nd day of November, 1960.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

A. Doudell Trucking Company, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to transport general commodities between the points and places, and over the routes specified, including intermediate points as well as all off-route points hereinafter named, as follows:

- I. BETWEEN all points in the following territories via any and all highways, streets and roads:
 1. San Francisco Territory as described in Appendix B attached hereto.
 2. Los Angeles Basin Territory as described in Appendix C attached hereto.
- II. BETWEEN all points on or within 20 miles laterally of the following routes:
 1. U. S. Highways 101, 101 By-Pass and 101-A between San Rafael and San Ysidro.
 2. U. S. Highways 99 and 80 between Sacramento and California-Arizona border (immediately west of Yuma, Arizona).
 3. U. S. Highways 40 and 50 and State Highways 4, 12 and 24 between San Francisco, Sacramento and Stockton (including all points on all highways within the lateral area; also including State Highway 21 between Fremont and its junction with State Highway 4 near Concord; and including between San Rafael and Richmond via Richmond-San Rafael Bridge).
 4. State Highway 33 and U. S. Highway 399 between junction of State Highway 33 and U. S. Highway 50 (east of Tracy) and Ventura.
 5. State Highways 132, 140, 180 and 166 between their junctions with State Highway 33 and U. S. Highway 99 at Modesto, Merced, Fresno and south of Bakersfield, respectively.
 6. State Highway 152 between Watsonville and Califa.

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7. State Highways 198 and 65 between San Lucas, Exeter and junction of State Highway 65 and U. S. Highway 99 near Bakersfield.
 8. U.S. Highway 466 between Paso Robles and California-Nevada State line.
 9. U. S. Highways 60, 60-70, 60-70-99, 70-99 and State Highway 111 between Los Angeles, Redlands, Riverside, Thousand Palms, Palm Springs and California-Arizona State line.
 10. U. S. Highways 66 and 66-91 between junction of U. S. Highway 66 and 99 (near Pasadena) and California-Arizona State line near Needles.
 11. U. S. Highways 6, 395 and unnumbered highways between San Fernando, Mojave, Inyokern, Johannesburg and San Diego.
 12. State Highways 71 and 74 between Pomona and Temecula and between San Juan Capistrano and Perris.
 13. State Highway 1 between San Francisco and Las Cruces; also State Highway 150 between Surf and Santa Paula.
 14. State Highways 118 and 126 between their junctions with U. S. Highways 101 and 99 at San Fernando and near Castaic.
 15. State Highways 5, 9 and 17 between junction of State Highways 5 and 1 and Saratoga, between Sunnyvale and Los Gatos, and between San Jose and Santa Cruz.
 16. Unnumbered and State Highways 156 and 25 between Monterey, Castroville, Hollister and junction of State Highway 25 and U. S. Highway 101 near Gilroy.
- III. BETWEEN all points and places via any and all routes included in I and II, also between all points thus described.

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B. Doudell Trucking Company 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 refrigerated 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.

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9. Fresh or green fruits, fresh or green vegetables or mushrooms when the point of destination of shipment is a cannery, accumulation station, cold storage plant, precooling plant or winery;

Provided however,

Applicant's tariff shall provide for the rendering of:

- (a) Daily service seven days a week, both scheduled and on call;
- (b) Same day service;
- (c) Saturday, Sunday and emergency service,

BETWEEN San Jose, Fresno, Los Angeles, on the one hand, and all points within a 250 road-mile radius from said San Jose, Fresno and Los Angeles, on the other hand.

End of Appendix A

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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; southwestly 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, Earbord 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; southwestly 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.

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; 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.