

ORIGINAL

Decision No. 61179

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THOMAS H. MARROW TRUCKING CO., a)
corporation, for extension of its)
certificate of public convenience)
and necessity as a highway common)
carrier of property.)

Application No. 42558

Ivan McWhinney, attorney, for applicant.

O P I N I O N

Applicant acquired by Decision No. 59688 dated February 23, 1960, authority as a highway common carrier granted by the Commission on November 27, 1956, in Decision No. 54149, in a territory which includes Los Angeles and San Diego. Applicant seeks to expand this territory to include all points in the Areas described as the Los Angeles Territory and the San Diego Territory, and from San Diego east to El Centro plus certain off-route points along U. S. Highways Nos. 101, 395, and 80.

A public hearing was held in Los Angeles on October 17, 1960, before Examiner Robert D. De Wolf, and was submitted on said date and is now ready for decision.

Applicant requested an amendment of the application at the start of the hearing to provide a restriction limiting the transportation of shipments of ammunition or explosives to or from the Naval Ammunition Depot at Fallbrook to shipments not exceeding 10,000 pounds.

No protests or additional appearances were filed at the hearing.

The applicant submitted evidence in support of its application consisting of the testimony of seven shipper witnesses, each of whom testified that applicant's service was being used by his firm and was very satisfactory, that the proposed additional service would be of great benefit to their business, and that equivalent service was not obtainable elsewhere. The applicant offered a list of 29 pages showing the names and addresses of over 250 shippers whom it alleges would testify in support of the application for extension of territory.

Letters were received in evidence from four other shippers who indicated support of the application.

Upon consideration of all of the evidence the Commission finds and concludes that a substantial number of shippers wish to use the extended service requested by applicant, and further finds that the applicant has the experience, equipment, personnel and financial resources to institute and maintain the requested service, that public convenience and necessity require that the application as amended be granted, and that the following order be made for an in lieu certificate combining applicant's operating authority herein.

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 as above entitled having been filed, public hearing having been held thereon, and the Commission having made the foregoing findings, and good cause appearing,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it hereby is granted to Thomas Marrow Trucking Co., a corporation, authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of property between the points 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 operating authority granted by Decision No. 54149, dated November 27, 1956, and acquired by applicant by Decision No. 59688 dated February 23, 1960, is hereby revoked and canceled, said cancellation 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 13th day of December, 1960.

Gerritt Page
President

Walter J. ...

Walter J. ...

Edwin Fox

Theodore ...
Commissioners

Thomas H. Marrow Trucking Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities in the following described territory:

1. Between all points in the Los Angeles Basin Area as follows:

Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to Ventura Boulevard; westerly along Ventura Boulevard to Topanga Canyon Boulevard; northerly along Topanga Canyon Boulevard to Santa Susana Avenue, northerly along Santa Susana Avenue to San Fernando Mission Boulevard; easterly and northeasterly along San Fernando Mission Boulevard and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest boundary and San Bernardino National Forest boundary to the Riverside County boundary east of Yucaipa; southerly and westerly along the Riverside County boundary to a point directly north of Redlands Boulevard; southerly from said point along an imaginary line and along Redlands Boulevard to Alessandro Avenue in Moreno; westerly along Alessandro Avenue to Perris Boulevard; southerly along Perris Boulevard to the county road paralleling the southerly boundary of March Air Force Base; westerly along said county road to U. S. Highway No. 395; northerly and easterly along U. S. Highway No. 395 to State Highway No. 18; southwesterly along State Highway No. 18 to U. S. Highway No. 91; westerly along U. S. Highway No. 91 to State Highway No. 55; southerly on

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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.

2. Between all points in the San Diego-Escondido Territory as follows:

Beginning at Oceanside at the junction of U. S. Highway 101 and State Highway 76; thence easterly on State Highway 76 and county roads to Vista; thence southeasterly on State Highway 78 to Escondido; thence southerly on U. S. Highway 395 and county roads via Poway to Miramar on U. S. 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; thence westerly to the Pacific Ocean; thence north along the Pacific Ocean including North Island and Coronado to the point of beginning at Oceanside.

3. Between all points in said Los Angeles Basin Area, on the one hand, and, on the other hand, all points in said San Diego-Escondido Territory over the routes as follows:

- (a) U. S. Highway No. 101 serving all intermediate points and all off-route points on and along and within 3 miles laterally of said highway and the off-route points of El Toro Marine Base, Camp Pendleton, Fallbrook Valley Center and Bonsall.

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Appendix A

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(a corporation)

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(b) U. S. Highway 395 serving all intermediate points and all off-route points on and along and within 3 miles laterally of said highway between Escondido and San Diego and the off-route point of Poway.

4. Between said San Diego-Escondido Territory, on the one hand, and, on the other hand, El Centro and points within 30 miles of El Centro, over U. S. Highway 80 serving all intermediate points on and along said highway.

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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.
9. Ammunition or explosives to or from the Naval Ammunition Depot at Fallbrook exceeding 10,000 pounds.

End of Appendix A

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