

ORIGINAL

Decision No. 51361

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

QWIKWAY TRUCKING CO., a corporation,
for an in lieu certificate of public
convenience and necessity as a highway
common carrier of general commodities
between points in the Los Angeles Basin
Territory and between said Territory
and San Diego serving intermediate
points, pursuant to Sections 1063-1064
of the California Public Utilities Code.

Application No. 42710

Glanz, Russell & Schureman, by R. Y. Schureman,
for applicant.

O P I N I O N

Qwikway Trucking Co., a corporation, was authorized to transport general commodities, under a certificate of public convenience and necessity issued to the president of Qwikway, Manuel J. Nieves, Jr., by Decision No. 54110, dated November 19, 1956, and transferred to this applicant by Decision No. 54941, dated May 7, 1957.

This application requests an in lieu certificate of public convenience and necessity to transport general commodities, subject to exceptions set forth between points in the Los Angeles Basin Territory and San Diego and intermediate points.

Notice of filing of the application was given to the competitors of applicant as set forth in Exhibit "D" thereof and notice of the hearing mailed to all interested parties.

A public hearing was held at Los Angeles on November 23, 1960, before Examiner Robert D. De Wolf, and was submitted on said date.

No protests were filed or entered at the hearing.

The applicant submitted evidence in support of its application consisting of the testimony of eight 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. Three exhibits were admitted in evidence in support of the application. Exhibit No. 1 sets forth a map of the Los Angeles Basin Territory and the requested territory consisting of San Diego and intermediate points. Exhibit No. 2 is a list of the equipment of applicant, and Exhibit No. 3 is a statement of the financial condition of the applicant on September 30, 1960.

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 be granted, and that the following order be made for an in lieu certificate combining applicant's operating authority herein.

Qwikway Trucking Co. 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 Qwikway 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 and Appendix 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

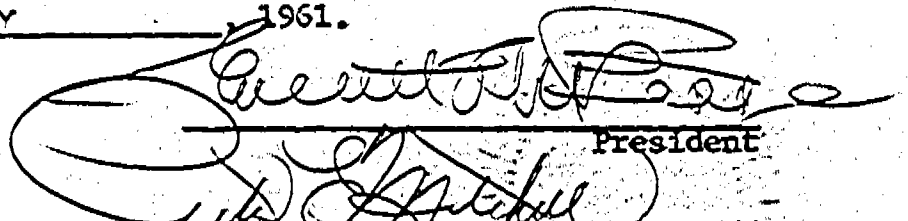
regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.

(b) Within one hundred twenty 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 the certificate of public convenience and necessity granted by Decision No. 54110 and acquired by applicant by Decision No. 54941, which certificate is hereby canceled and revoked, said revocation 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 17th day of JANUARY, 1961.



President



Secretary



Commissioners

Qwikway Trucking Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, subject to the exceptions set forth in Appendix B, in the following described territory:

A. BETWEEN POINTS IN THE LOS ANGELES BASIN TERRITORY DESCRIBED
AS FOLLOWS:

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; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile

Issued by California Public Utilities Commission.

Decision No. 51361, Application No. 42710.

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; southwesterly 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.

B. BETWEEN POINTS IN THE SAID LOS ANGELES BASIN TERRITORY, ON THE ONE HAND, AND ON THE OTHER, THE SAN DIEGO TERRITORY AS FOLLOWS:

1. Between the Los Angeles Basin Territory, on the one hand, and on the other hand, the San Diego Territory as hereinafter described, serving all intermediate points on U. S. Highways 101 and 395 and on State Highway 78 between U. S. Highways 101 and 395, and all points laterally within five miles of the portion of U. S. Highway No. 101 extending from the Los Angeles Basin Territory to the San Diego Territory.

2. The San Diego Territory includes that area as embraced by the following imaginary line starting at the northerly junction of U. S. Highways Nos. 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on U. S. Highway No. 395; thence southeasterly to Lakeside on the El Cajon-

Issued by California Public Utilities Commission.

Decision No. 61361, Application No. 42710.

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 A

Issued by California Public Utilities Commission.

Decision No. 61361, Application No. 42710.

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 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.

End of Appendix B

Issued by California Public Utilities Commission.

Decision No. 61361, Application No. 42710.