

**ORIGINAL**Decision No. 61588

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASBURY TRANSPORTATION CO., a corporation, for a certificate of public convenience and necessity to extend highway common carrier services and to consolidate its operating authorities.

Application No. 42677

James W. Wade, of Wade and Wade, for applicant.O P I N I O N

Asbury Transportation Co., a corporation, is operating under permitted authority as a radial highway common carrier, a highway contract carrier and a city carrier. The applicant also operates as a highway common carrier under a certificate of public convenience and necessity acquired by Decisions Nos. 32107 and 32290 which, in general, authorize the transportation of oil well supplies and machinery along the principal routes in California, south of a line running through Salinas, Fresno and Lone Pine. Applicant also holds a certificate as a highway common carrier under Decision No. 42623, as amended by Decision No. 43049, which authorizes the transportation of petroleum products in bulk over most of the State of California.

The applicant presently transports general commodities as a highway common carrier under certificates of public convenience and necessity granted by Decision No. 53552, which authorizes the transportation of general commodities, with certain exceptions, between Los Angeles and Taft, Bakersfield, Oildale, Cuyama, Avenal, Ventura, Santa Paula and Fillmore, with no right to serve intermediate

points. The applicant is authorized to haul general commodities from the City of Los Angeles to the Los Angeles Harbor, namely, Wilmington and San Pedro, under Decision No. 32107, as amended by Decision No. 32290.

Applicant now requests an extension and restatement of its certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code, authorizing the transportation of general commodities, with certain exceptions, over most of the principal routes in California, south of the San Francisco Territory on the coast and generally south of Sacramento inland, extending south to the Mexican border and east to the Arizona border.

A public hearing was held before Examiner Edward G. Fraser on December 19, 1960, in Los Angeles, California. There were no protests filed and the matter was submitted on receipt of a late-filed exhibit on December 30, 1960.

The president of the applicant testified the company has been in business since 1922. Its original operation was primarily the hauling of oil well equipment and petroleum products. Recent developments have forced many oil wells to either shut down or to greatly curtail their operation and the applicant can no longer rely on these accounts. Other carriers of property have recently been granted extensive general commodity authority and this has seriously depleted the applicant's business, since customers prefer to use a carrier that serves all points where they are likely to make delivery.

The applicant maintains a total of 221 items of equipment for general commodity operations. Included are 134 line-haul trucks and trailers and 24 trucks used for local pickup and delivery. The

applicant now operates out of five terminals located in Vernon, Bakersfield, Taft, Avenal, and Ventura. If a certificate is granted, as requested in the application, a new terminal will be maintained in San Francisco and overnight service furnished between San Francisco and San Diego.

The applicant operates its own radio station and performs all repair and maintenance on its equipment.

The evidence shows that the shippers served by the applicant are shipping into a steadily expanding area and that the applicant has been asked to provide service into this extended area and to make split pickups and split deliveries therein. Fifteen shipper witnesses testified they prefer the service offered by the applicant and that it would be beneficial to their respective companies to have applicant provide service to the additional areas applicant has requested authorization to serve.

The evidence further discloses that applicant is able to supply the extended service, has adequate equipment, has the necessary experience, and is financially sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order, which will restate applicant's certificate combining all of its general commodity authority.

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

Public hearing having been held, and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Asbury Transportation Co., 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 and over the routes as more particularly set forth in Appendices A, B, C and D 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 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 certificate of public convenience and necessity granted in paragraph 1 of this order is a restatement and supersedes the certificates of public convenience and necessity granted or acquired by Decisions Nos. 32107, 32290 and 53552, which certificates are 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 24th day of FEBRUARY, 1961.

[Signature]  
President

[Signature]

[Signature]

[Signature]  
Commissioners

Asbury Transportation Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, including property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casing head plants, equipment and material used in construction, and equipment used in farming, with the exceptions hereinafter specified, and including liquefied petroleum gases and any other petroleum products requiring pressurized tanks and liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks, as follows:

1. Between all points and places in the San Francisco Territory as described in Appendix B attached hereto.
2. Between all points and places in the Los Angeles Basin Territory as described in Appendix C attached hereto.
3. Between all points and places in the San Diego Territory as described in Appendix D attached hereto.
4. Between all points and places on and within 25 miles laterally of the following named highways:
  - a. U.S. Highway 40 between Oakland and Sacramento, inclusive.
  - b. State Highway 4 between its intersection with U.S. Highway 40 near Pinole and Stockton, inclusive.
  - c. U.S. Highways 101 and 101 alternate between San Jose and San Diego, inclusive.

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- d. State Highway 118 between its intersection with U.S. Highway 101 near Ventura and Chatsworth, inclusive.
- e. U.S. Highway 99 between Sacramento and San Fernando, inclusive.
- f. State Highway 33 between its junction with U.S. Highway 50 near Tracy and its junction with U.S. Highway 99 near Wheeler Ridge, inclusive.
- g. U.S. Highway 395 between Temecula and San Diego, inclusive.
- h. U.S. Highways 60 and 70 between the eastern boundary of the Los Angeles Basin Territory and Blythe, inclusive. (See Exception 1.)

EXCEPTION 1 - Service on and within 25 miles laterally of U.S. Highways 60 and 70 between Indio and Blythe, inclusive, is restricted to shipments weighing 20,000 pounds or more (truck-load lots).

- i. U.S. Highway 99 between Redlands and Calexico, inclusive.
- j. U.S. Highway 80 between Bostonia and Winterhaven, inclusive.
- k. U.S. Highway 66 between San Bernardino and Needles, inclusive.
- l. U.S. Highway 6 between San Fernando and Independence, inclusive. (See Exception 2.)

EXCEPTION 2 - Service on and within 25 miles laterally of U.S. Highway 6 between Mojave and Independence, inclusive, is restricted to shipments weighing 20,000 pounds or more (truck-load lots).

- m. U.S. Highway 466 between Bakersfield and Barstow, inclusive.

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- n. U.S. Highway 399 between Ventura and Greenfield, inclusive, including the off-route points of Santa Paula and Fillmore.
5. Through routes and rates may be established between any and all points described in subparagraphs 1 through 4n above.
6. Applicant may use any and all highways and roads between the areas described for operating convenience only.
7. Applicant shall not transport any shipments of the following commodities except as otherwise provided:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
  - e. 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.
  - f. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
  - g. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
  - h. Logs.

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; southwestery 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 Miles 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, Harbord 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; southwestery 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.

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SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U. S. Highways 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. 20; 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 point of beginning.