

ORIGINAL

Decision No. 61582

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 KEY TRANSPORT, INCORPORATED, a cor-)
 poration, for a certificate of pub-)
 lic convenience and necessity to)
 operate as a highway common carrier)
 for the transportation of property)
 to, from and between points and)
 places in the Los Angeles Basin)
 Territory.)

Application No. 42989

O P I N I O N

By the application herein filed on December 19, 1960, applicant, a highway common carrier, operating as such pursuant to authority from this Commission, seeks a certificate of public convenience and necessity restating its present operative rights and adding thereto authority to transport general commodities, with exceptions, to, from and between all points and places in the Los Angeles Basin Territory, as described in Item 270 Series of Minimum Rate Tariff No. 2.

Applicant proposes to use any and all available public streets and highways between the points in the service area.

Applicant's authority is based on a prescriptive right of Citizens Truck Company, Ltd., acquired by Costigan Trucking Co., Inc., by Decision No. 47841 and acquired by applicant by Decision No. 56904 dated July 1, 1958 in Application No. 39801. The original prescriptive right was for the operation of service as a highway common carrier of property between the City of Los Angeles

and the steamship wharves and docks located at Los Angeles Harbor (Wilmington and San Pedro) as more particularly defined by Decision No. 12823, dated November 14, 1923.

As justification for the granting of the requested authority, applicant alleges that it has conducted operations throughout the Los Angeles Basin Territory under its certificated authority and under permits issued by this Commission; that this operation has continued for a period of many years; that it has received numerous requests from various shippers having movements of general commodities to, from, and between points in applicant's present service area; that during the past nine years there has been a substantial increase in population and industry in the points and places presently served and proposed to be served by applicant; that there is a lack of adequate common carrier transportation service of the type rendered by applicant from, to, and between the points sought to be served; that applicant's regular customers frequently have occasion to tender shipments which require split deliveries where both deliveries are within applicant's presently authorized service area as a common carrier and in other instances where only one delivery would be within the area and other deliveries outside the area; that this places a rate burden upon applicant's regular customers; and that applicant seeks to eliminate this penalty by the expansion of its services within the entire Los Angeles Basin Territory.

The proposed service will be on call Monday through Friday, with Saturday service at destination if desired by the shipper.

Applicant proposes to maintain the same rules and regulations in the proposed service area as are contained in Western Motor Tariff Bureau Inc., Agent, Local, Joint and Proportional Freight Tariff 18-B, Cal. P.U.C. No. 17, J. L. Beeler, Agent, Series.

Applicant owns and operates approximately 50 pieces of revenue equipment. Its financial condition as of October 31, 1960, shows total assets of \$75,086 and current liabilities of \$12,967. Its net profit for the first ten months of 1960, before income taxes, was \$13,799.

Applicant served copies of the application on all known competing carriers at the time it filed the application with the Commission. No objections have been received.

The Commission having considered the matter is of the opinion, and finds and concludes, that public convenience and necessity require that applicant be authorized to establish and operate a highway common carrier service as hereinafter set forth. A new certificate will be granted for the purpose of clarification in place of applicant's present authority which will be canceled. A public hearing is not deemed necessary.

Key Transport, Incorporated, 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. 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

An application having been filed, the Commission having found that public convenience and necessity require that applicant be granted the authority it has requested, and based on said findings,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Key Transport, Incorporated, 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 restates and supersedes the prescriptive right of Citizens Truck Company, Ltd., as defined by Decision No. 12823, dated November 14, 1923, as acquired by Costigan Trucking Co., Inc., by Decision No. 47841, dated October 21, 1952, and acquired by Key Transport, Incorporated, by Decision No. 56904, dated July 1 (1958) in Application No. 39801, which authority is hereby canceled and revoked, said revocation 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 28th day of February, 1961.

Ernest W. Page
President
Ed. E. Mitchell
C. L. Fox
George G. Brown
Frederick W. Hallock
Commissioners

Key Transport, Incorporated, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places within the Los Angeles Basin Territory, as described in Appendix B attached hereto:

Applicant shall not transport any shipments of:

- (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 semi-trailers or a combination of such highway vehicles.

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- (f) Commodities when transported in bulk in dump trucks or hopper-type trucks.
- (g) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- (h) Logs.
- (i) Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
- (j) Commodities likely to contaminate or damage other freight.
- (k) Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.

End of Appendix A

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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 Mc Clay 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; southwestwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Ferris; 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; southwestwesterly 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; southeastwesterly 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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