

**ORIGINAL**

Decision No. 61616

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
UNITED DELIVERY SYSTEM, INC., a  
corporation, for the extension of  
its certificates of public convenience  
and necessity as a highway common  
carrier of property.

)  
) Application No. 42912  
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Ivan McWhinney, for applicant.

O P I N I O N

By the application herein, filed on November 25, 1960, applicant, a highway common carrier transporting general commodities pursuant to authority from this Commission between points in the Los Angeles area and the San Diego area including intermediate and off-route points, seeks a certificate of public convenience and necessity authorizing it to transport general commodities, with exceptions, between the San Francisco Territory, Stockton, San Luis Obispo, the Los Angeles Basin Territory, the San Diego Territory, certain points in San Diego and Riverside Counties, and points within five miles of the specified routes traversed.

A public hearing on the application was held before Examiner Kent C. Rogers in Los Angeles on January 23, 1961. Prior to said hearing notice thereof was served on all parties with which applicant was likely to compete. There were no protests.

As justification for the granting of the requested authority, applicant alleges that it serves a large number of shippers in its present service area and many of them have requested that applicant extend its service as proposed; that these shippers have a

substantial volume of shipments moving between the points proposed to be served by applicant, as well as between the points presently served by applicant; that the extension of service as proposed by applicant will permit it to furnish its customers with a more complete and integrated service between all points; and that the extension of service will enable applicant's customers to receive the maximum benefits of split delivery shipments and to effect substantial savings in handling and transportation costs through the use of applicant's service between Los Angeles and San Diego, and between Los Angeles, San Luis Obispo and San Francisco.

Applicant had available at the hearing representatives of ten shippers of general commodities and had made arrangements to call eighteen other representatives if needed.<sup>1/</sup> The record shows that, if called as witnesses, the representatives would have testified that their companies desire that applicant be authorized to carry property as a highway common carrier as proposed in the application.

The proposed service will be Monday through Friday, with Saturday deliveries on request at all points to be served.

The rates, rules and regulations proposed to be assessed and observed by applicant will be on the level, and in the nature, of the minimum rates, rules and regulations prescribed by the Commission for the transportation.

Applicant has one terminal in Los Angeles at present. It will establish additional terminals in Santa Maria, Fresno and San Francisco. It owns and operates twenty pieces of equipment and will obtain additional equipment as needed.

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<sup>1/</sup> Exhibit No. 1

Applicant has total assets it values at \$32,842 and total liabilities of \$5,528. For the first quarter of 1960 it made a net profit from operations of \$2,894.

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 re-stated and extended certificate will be granted for the purpose of clarification in place of applicant's present operating authority which will be cancelled.

United Delivery System, Inc., 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

An application having been filed, a public hearing having been held and based on the evidence therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to United Delivery System, Inc., 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 general commodities between the points and over the routes 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 supersedes the certificate of public convenience and necessity granted by Decision No. 60665,

which certificate is hereby cancelled 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 7th day of March, 1961.

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*E. Lester*  
 President

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*George L. Hoover*

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*Frederick B. Haloboff*

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 Commissioners

Everett C. McKeage  
Commissioners Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

United Delivery System, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities:

1. Between all points and places within the Los Angeles Basin Area, as described in Appendix E, attached hereto.
2. Between the Los Angeles Basin Area, on the one hand, and, on the other hand, all points and places within the San Diego Territory, as described in Appendix B attached hereto.
3. Between the Los Angeles Basin Area or the San Diego Territory, on the one hand, and, on the other hand, all points and places on the following named or numbered streets or highways and all points and places within five miles laterally thereof:
  - a. U. S. Highways Nos. 101 and 101-A from Los Angeles to San Diego.
  - b. State Highway No. 76 between Oceanside and Lake Henshaw, including Lake Henshaw.
  - c. Unnamed county roads from Bonsall to Fallbrook and from Fallbrook east to U. S. Highway No. 395.
  - d. U. S. Highway No. 395 between the southern boundary of Riverside County and San Diego.
  - e. State Highway No. 78 between its junction with U. S. Highway 101 and San Pasqual, including San Pasqual.

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- f. Unnamed county road from Rincon through Valley Center to Escondido.

United Delivery System, Inc., shall render no service between any two points both of which are in the San Diego Territory.

In rendering service pursuant to paragraphs 1, 2 and 3 of this appendix, 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), Item No. 10-C, of Minimum Rate Tariff No. 4-A, between the Los Angeles Basin Area, and Vista;
  - b. New household goods, office and store fixtures and equipment not packed in accordance with the crated property requirements set forth in paragraph (d), Item No. 10-C, of Minimum Rate Tariff No. 4-A, between the Los Angeles Basin Area and Vista.
4. Between all points and places in the said Los Angeles Basin Area, on the one hand, and, on the other hand, San Luis Obispo, Stockton and the San Francisco Territory, as described in Appendix B attached hereto, via the following named and numbered streets and highways serving all points and places within five miles laterally thereof:
- a. U. S. Highways Nos. 101 and 101-A between Los Angeles and San Luis Obispo;
  - b. U. S. Highway No. 99 between Los Angeles and Stockton;
  - c. U. S. Highway No. 50 between its junction with U. S. Highway No. 99, and San Francisco.

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In rendering service pursuant to this paragraph 4, 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 refrigerated 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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Los Angeles Basin Area

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 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 and including the City of Redlands; westerly along U. S. Highway No. 99 to U. S. Highway No. 395; southerly along U. S. Highway No. 395 to Alessandro; westerly along unnamed county road to Arlington; southwestly along State Highway No. 18 to U. S. Highway No. 91; westerly along U. S. Highway No. 91 to State Highway No. 55; southerly along 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. 101A; thence northerly along an imaginary line to point of beginning.

San Diego Territory

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 (four miles north of La Jolla); thence easterly to Miramar on U. S. Highway No. 395; thence southeasterly to Lakeside on the El Cajon-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 point of beginning.

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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; north-easterly 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, Harbor 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.

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