

**ORIGINAL**

Decision No. 61924

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of A. S. FITZ-GERALD,  
an individual, doing business as  
FITZ-GERALD BROS., to extend  
highway common carrier operations.

Application No. 42904  
(Amended)

Wyman C. Knapp and Warren  
N. Grossman, for applicant.

O P I N I O N

By this application filed November 25, 1960, as amended December 15, 1960, A. S. Fitz-Gerald requests authority to extend his pickup and delivery zone in the Los Angeles Metropolitan Area so that it will include the territory in and around such cities as Covina, Pomona, Fullerton, Anaheim, Orange, Santa Ana, Buena Park, Seal Beach, Sunset Beach, Huntington Beach and Newport Beach.

Public hearing was held on February 9, 1961, in Los Angeles before Examiner Rowe, at which time evidence was adduced and the matter duly submitted for decision. Copies of the application were served on all competing carriers and upon California Trucking Associations, Inc., and notice of the hearing was given to all competitors. No one appeared in protest.

Six public witnesses testified that their shipper firms required the service to the additional points requested. At present, these companies when shipping to such points as Anaheim and Santa Ana are required to ship by two carriers with the added delay and increased charges incident thereto. Counsel for applicant stated that applicant had other witnesses who would testify to substantially the same public need but would not produce such testimony unless the examiner felt it necessary. When no such need was indicated, applicant submitted the matter for decision.

From the evidence of record it appears and the Commission finds that California Motor Express and Pacific Motor Trucking Company are the only highway common carriers who presently perform the service requested by applicant without interlining with another such carrier; that public convenience and necessity require that applicant be granted such rights; and that applicant is properly financed and experienced to perform this service.

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

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 be and it is granted to A. S. Fitz-Gerald, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes as more particularly set forth in Appendices A and 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 he will be required, among other things, to file annual reports of his 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 Appendix A of Decision No. 60778 is amended by incorporating therein First Revised Pages 3 and 4 in revision of Original Pages 3 and 4.

4. That revised Appendices B and C, attached hereto and made a part hereof, are substituted for Appendices B and C of Decision No. 60778.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 1st day of May, 1961.

[Signature]  
President

[Signature]

[Signature]

[Signature]  
Commissioners

Gypsum  
Lamps, electric  
Line  
Lumber  
Manure, animal  
Notions  
Oil, linseed  
Paint  
Pallets  
Paste, adhesive  
Plant supports  
Sodium phosphate  
Stakes, iron, steel or wooden  
Structural iron or steel  
Tires, pneumatic  
Tubes, tire  
Trailers  
Twine  
Wheels  
Windows,

Between Los Angeles Metropolitan Area as described in Appendix B attached hereto, on the one hand, and Santa Maria and Betteravia, on the other hand,

2. Fruit, fresh or green(not cold pack nor frozen),

Vegetables, fresh or green (not cold pack nor frozen),  
including mushrooms, fresh,

Between Santa Maria, on the one hand, and Los Angeles Metropolitan Area as described in Appendix B attached hereto, on the other hand.

3. Sugar,

Between Betteravia, on the one hand, and Los Angeles Metropolitan Area as described in Appendix B attached hereto and San Jose, on the other hand.

Issued by California Public Utilities Commission.

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## 4. General Commodities,

Between Los Angeles Metropolitan Area as described in Appendix B attached hereto, on the one hand, and Port Hueneme, Oxnard and Ventura, including points intermediate between Oxnard and Ventura, on U. S. Highway No. 101, on the other hand.

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, other than sugar, in tank trucks, tank trailers, tank semi-trailers 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.

Issued by California Public Utilities Commission.

Decision No. 61071, Application No. 42904.

LOS ANGELES METROPOLITAN AREA includes the area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway 7; northerly along State Highway 7 to State Highway 118; northeasterly along State Highway 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway 118 to and including the City of Pasadena; easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; southerly on Buena Vista Street to U. S. Highway 66; easterly on U. S. Highway 66 to its junction with U. S. Highway 71; southerly on U. S. Highway 71 to its junction with State Highway 18; southwesterly on State Highway 18 to its junction with State Highway 55 at Fullerton; southerly and southwesterly on State Highway 55 and its prolongation to the Pacific Ocean at Newport Beach; northwesterly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway 101, Alternate; thence northerly along an imaginary line to point of beginning.

APPENDIX C TO DECISION NO. 61924

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