

62104

Decision No. \_\_\_\_\_

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 HAROLD H. McBRIDE, dba H. McBRIDE )  
 DELIVERY SERVICE, for enlargement )  
 and extension of existing operative )  
 rights and for authority to operate )  
 all of applicant's existing and )  
 proposed highway common carrier )  
 service as a consolidated and unified )  
 system for the transportation of )  
 property, under and pursuant to )  
 Sections Nos. 1063, 1064, and 1065 )  
 of the Public Utilities Code. )

Application No. 42859  
 (Filed Nov. 15, 1960)

William H. Kessler, for applicant.  
F. S. Kohles, for Valley Express Co.,  
 Valley Motor Lines, Inc., protestant.  
 Robert C. Ellis by F. S. Kohles, for  
 California Motor Express Ltd., and  
 California Motor Transport Ltd.,  
 protestant.

O P I N I O N

This application was heard before Examiner Martin J. Porter at Fresno on February 15, 1961, on which date it was submitted, subject to the late filing of an exhibit by the protestants. This exhibit has been received. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are Valley Express Co., Valley Motor Lines, Inc.; California Motor Express Ltd., and California Motor Transport Ltd.

Applicant is a highway common carrier presently transporting general commodities, except groceries and shipments weighing in excess of 4,000 pounds, generally between Fresno and Minkler on the north, Kingsbury and Yettem on the south, serving intermediate points. Applicant requests authorization to extend

highway common carrier operations so as to transport general commodities, with the 4,000 pound limitation removed, south on and along U. S. Highway 99 to a terminal point of Tulare, with a 25-mile lateral. Applicant proposes rates as prescribed by the Commission and published in Minimum Rate Tariffs applicable to the transportation of property herein proposed to be transported. Service will be overnight to, from and between all points herein proposed to be served, daily except Sundays and holidays. A substantial portion of the freight picked up each day will be delivered the same day.

Applicant shows total assets of \$14,478.81 as of September 30, 1960, and lists eleven units of revenue equipment. Applicant has received requests to transport groceries and has refused shipments in excess of 4,000 pounds. Since the establishment of applicant's certificated operations in 1950 applicant's volume of traffic transported and the number of patrons served have increased. The geographical scope of applicant's operations has remained as it was in 1950. However, applicant's patrons have made constant demands upon applicant to expand his service and operations within the territory herein proposed to be served. Applicant at present operates as a highway permit carrier in the area sought by the application.

Three shipper witnesses testified that they used applicant's services; that applicant's service in the proposed area would be an advantage to their business when they needed emergency or same-day delivery. The removal of the 4,000-pound limitation would also be advantageous.

Exhibit No. 1 is a list of seventeen persons who, it was stipulated, if called as witnesses, would testify substantially the same as those who testified.

Protestants presented no witnesses but in exhibit form presented operative information concerning the area sought in this application and participated in cross-examination of applicant and his witnesses. The operative information shows that the protestants provide service in the area sought by this application.

Upon consideration of the evidence the Commission finds and concludes as follows:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

2. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

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 therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Harold H. McBride, an individual doing business as H. McBride Delivery Service, authorizing the establishment and

operation of service as a highway common carrier, as that term is defined in Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes set forth in Appendix A 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 Order Nos. 99 and 100-A may result in a cancellation of the operating authority granted by this decision.

(b) Within one hundred and 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 supersedes the certificate of public convenience and necessity granted by Decision No. 44526, dated July 11, 1950, in Application No. 30553, which certificate is hereby 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 6th day of June, 1961.

*Arthur W. Page*  
 President

*J. J. [unclear]*

*E. Lynn Fox*

*Frederick B. Hilchoff*

Commissioners

Harold H. McBride, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

- (a) Between all points and places on or within 25 miles laterally of U.S. Highway 99 between Fresno and Tulare, inclusive.
- (b) Between all points and places within a 25-mile radius of Fresno.
- (c) Between all points and places within a 25-mile radius of Tulare.
- (d) Through routes and rates may be established between any and all points specified in subparagraphs (a) through (c) above.

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Decision No. 62106, Application No. 42859.

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.
8. Logs.

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9. Commodities which by reason of their abnormal size, weight or bulk require special equipment and handling.
10. Articles of extraordinary value as set forth in Rule 3 of Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
11. Commodities likely to contaminate or damage other freight.
12. 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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