

ORIGINAL

62198

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of B. W. HODGE TRANS-
PORTATION, INC., a corporation,
to extend highway common carrier
operations.)
_____)

Application No. 43112
(Filed January 30, 1961)

Knapp, Gill, Hibbert & Stevens, by Warren N. Grossman, for applicant.
Graham James & Rolph, by Boris Lakusta and Leo J. Vander Lens, for California Cartage Company, Inc., California Motor Express, Ltd., California Motor Transport, Ltd., Oregon-Nevada-California Fast Freight, Southern California Freight Lines, Shippers Express, Fortier Transportation Company, Merchants Express, Sterling Transit Co., Inc., Valley Express Company, and Valley Motor Lines, protestants.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf at Los Angeles, California, on April 4 and 24, 1961, and was submitted on April 24, 1961. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

The protestants who offered testimony at the hearing are California Cartage Company, Inc., Southern California Freight Lines, and Sterling Transit Co., Inc.

Applicant is a highway common carrier and a radial permit carrier presently transporting specific commodities generally between Los Angeles and San Diego under Decision No. 53875, dated

October 9, 1956, and Radial Highway Permit No. 19-34557-R, issued by this Commission. Applicant requests authorization to extend such highway common carrier operations so as to transport general commodities between points in the City of Los Angeles and points in the San Diego Territory and certain off-route points. Applicant proposes to conduct a daily scheduled service except Saturdays, Sundays and holidays, and proposes to publish its tariff of rates and charges predicated upon minimum rates and charges as prescribed and established in Minimum Rate Tariff No. 2.

The applicant serves fifteen major shippers and its proposed service does not require any additional equipment, terminals, or financial investment. The business of applicant's shippers is increasing, and the number and variety of commodities it plans to handle will include all general merchandise. By reason of this increased expansion of the number of commodities shipped, the growth of applicant's shippers, and the frequency of shipments, it has requested this authority.

Two shipper witnesses testified that they are warehousemen having from 275 to 350 storers for whom they direct freight routing, and have been using applicant's service for three years or more; that they have been very well satisfied with applicant's service; that the number of commodities handled and the frequency of shipments are constantly increasing; that due to shortage of dock space and the necessity for sorting of the shipments, it is

essential and economical for these shippers to use a single carrier for all their merchandise to the points involved; that applicant's service has been highly satisfactory and they will continue to use it as a regular operation; and that it is neither economical nor possible to get other carriers to handle the increased business which applicant could not take under its present authority.

The record herein shows that protesting carriers operating over this route possess the experience, equipment, personnel, and financial resources to carry the additional freight traffic over this route, and have had a slight decrease in volume of freight traffic from 1959 to 1960. The protestants' claim, that dilution of the traffic will result from any increase and expansion of this authority and that this will cause an increase in the cost of operation, has not been established by the evidence.

Findings and Conclusions

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.

B. W. Hodge Transportation, 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 be and it is granted to B. W. Hodge Transportation, 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 property 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 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-B. 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-B, 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. 53875, dated October 9, 1956, which certificate is hereby 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 27th day of June, 1961.

[Signature]
 President
[Signature]
[Signature]
[Signature]

 Commissioners

B. W. Hodge Transportation, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between the City of Los Angeles, on the one hand, and the following, on the other hand:

- (1) All points and places within the San Diego Territory as described in Appendix B attached hereto.
- (2) All points and places on and within five miles laterally of the following routes:
 - (a) U.S. Highway 101 between Oceanside and San Diego, inclusive, including the off-route point of Camp Pendleton.
 - (b) State Highway 78 between its junction with U.S. Highway 101 near Oceanside and Escondido, inclusive.
 - (c) U.S. Highway 395 between Escondido and San Diego, inclusive.

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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 protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
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.

End of Appendix A

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APPENDIX B TO DECISION NO. 62198

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 U. S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (State Highway 67); thence southerly to Bostonia on U. S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.