

Decision No. 62337**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
 GARMENT CARRIERS, INC., a California corporation, for a certificate of public convenience and necessity, pursuant to Sections 1063-1064 of the California Public Utilities Code, authorizing extension of present authorized service as a highway common carrier as follows:

(A) Of garments and wearing apparel on hangers between: (i) Los Angeles and all places in the San Francisco Territory and Sacramento Delta Area, as defined; (ii) between San Francisco and all places in the Los Angeles Basin Area, as defined; (iii) between Los Angeles and San Francisco, on the one hand, and Modesto, Oxnard, Ventura and Santa Barbara, on the other hand; and

(B) Of commodities, other than garments and wearing apparel on hangers, between all places in the Los Angeles Basin Area, as Defined, on the one hand, and all places in the San Francisco Territory and Sacramento Delta Area, as defined, on the other hand, serving named intermediate points.

Application
No. 42707

In the Matter of the Application of:
 A & B GARMENT DELIVERY, a California corporation, for a certificate of public convenience and necessity, pursuant to Sections 1063-1064 of the California Public Utilities Code, authorizing extension of presently authorized service as a highway common carrier to include the transportation of commodities generally (with certain exceptions) between points and places in the Los Angeles Basin Area as defined.

Application
No. 42708

Glanz, Russell & Schureman, by Theodore W. Russell and William R. Pippin, for applicants.
Roger L. Ramsey, for United Parcel Service;
W. S. Pilling and Earl J. Brooks, for Pacific Intermountain Express; Berol & Geernaert, by Bruce R. Geernaert, for California Motor Transport, California Motor Express, Valley Motor Lines, Valley Motor Express, Delta Lines, Inc.; and Franklin L. Knox, Jr., for 20th Century Trucking Company; protestants.

Consolidated public hearings were held on the above-entitled matters before Examiner Mark V. Chiesa at Los Angeles on December 1, 2 and 6, 1960, and January 11, 12 and 13, 1961. Evidence having been adduced, the matters were submitted for decision. Copies of the applications and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are set forth in the appearances.

Garment Carriers, Inc. - Present and Proposed
Operating Authority.

Garment Carriers, Inc., is now authorized, generally, to transport as a highway common carrier (1) garments, clothing and wearing apparel when transported on garment hangers and merchandise incidental thereto shipped in company therewith in packages weighing not more than eight pounds, and (2) "cloth, dry goods or fabrics, in rolls, bundles, boxes or cartons", between wholesalers, retailers and garment manufacturers; between Los Angeles and San Francisco and between said cities, on the one hand, and the intermediate points of Bakersfield and Fresno, on the other hand, as more specifically set forth in Decisions Nos. 48808 and 52994.

By Application No. 42707, it seeks an in lieu certificate authorizing the transportation of (a) garments and wearing apparel on hangers between Los Angeles and a described San Francisco Territory; between Los Angeles and a described Sacramento Delta area; between San Francisco and the Los Angeles Basin area; and between Los Angeles and San Francisco, on the one hand, and the intermediate points of Oxnard, Ventura, Santa Barbara, Bakersfield, Fresno and Modesto, on the other hand; and (b) general commodities, subject only to the usually restricted commodities, between points

and places in the Los Angeles Basin area, on the one hand, and all points and places in the San Francisco Territory and a described Sacramento Delta area, on the other hand, also service between said Los Angeles Basin area, San Francisco Territory and Sacramento Delta area, on the one hand, and the said above-named intermediate points, on the other hand. Frequency of service will be once daily, Monday through Friday.

A & B Garment Delivery - Present and Proposed
Operating Authority.

1/ A & B Garment Delivery, under authority of several decisions, is authorized, generally, to transport, as a highway common carrier, "garments, clothing and wearing apparel on hangers, and merchandise in packages weighing not to exceed eight pounds, to be used in connection with and shipped in company with garments in bags, between wholesalers and retailers ..." situated in approximately fifty-eight of the principal cities in the Los Angeles Basin area, all as more specifically set forth in said decisions.

By Application No. 42708 it seeks an in lieu certificate authorizing the transportation of general commodities, subject only to the usually restricted commodities, between all points and places within the Los Angeles Basin area. Frequency of service will be once daily, Monday through Friday.

1/ Decisions Nos. 35452, 35557, 36225, 38468, 43523, 44089, and 50331.

Proposed Rates and Charges.

Applicants propose (1) to establish rates for the transportation of garments and wearing apparel on hangers in the extended service areas and such points as they do not now serve, in substantial conformity with the scale of rates and charges and the rules and regulations published in their present tariffs; (2) to establish rates for general commodities which applicants here seek authority to transport at the level of the rates prescribed for the transportation of such commodities in Minimum Rate Tariff No. 2 of this Commission, with the exception that the applicants would propose (3) to transport small shipments which would be subject to minimum charges under such tariff on a package-rate basis at substantially the same level, but not lower than the package rates of highway common carriers of parcels then in effect between the points involved.

Findings and Conclusions.

Garment Carriers, Inc., now operates ten pieces of equipment, consisting of five tractors and five semitrailers, between Los Angeles and San Francisco, serving also the intermediate points of Bakersfield and Fresno. This equipment is primarily suited for the transportation of garments on hangers and is also used to transport dry goods. It also operates four pickup and delivery trucks at each of the four points of service. The applicant's principal service consists of the line haul between Los Angeles and San Francisco. A & B Garment Delivery and A & B Garment Delivery of San Francisco perform the major portion of its pickup and delivery service at Los Angeles and San Francisco, respectively. It is proposed to continue this arrangement with the proposed

transportation of general commodities; that is, A & B Garment Delivery would perform the pickup and delivery in the Los Angeles Basin area from its terminal in Los Angeles, and A & B Garment Delivery of San Francisco would perform the pickup and delivery service in the San Francisco Territory and described Sacramento Delta area. Garment Carriers, Inc., would line haul between the southern and northern California areas and also serve the named intermediate points either from line-haul equipment or with pickup and delivery equipment stationed at the intermediate points.

A & B Garment Delivery has modern and spacious terminal facilities in Los Angeles from which it operates its present transportation service using van-type trucks specially equipped to transport garments on hangers. Although applicants are requesting an extensive general commodity certificate, the present intention is to use the equipment now available.

The financial condition of applicants as of October 31, 1960, was as follows (Exhibits Nos. 4 and 7):

	A & B Garment Delivery	Garment Carriers, Inc.
Total Assets	<u>\$256,163.77</u>	<u>\$134,582.12</u>
Total Liabilities	78,612.66	44,041.98
Net Worth	<u>\$177,551.11</u>	<u>\$ 90,540.14</u>
Represented by:		
Capital Stock Out-		
standing	87,400.00	10,000.00
Earned Surplus	90,151.11	80,540.14
Total	<u>\$177,551.11</u>	<u>\$ 90,540.14</u>

For a ten months' period ending October 31, 1960, A & B Garment Delivery operated at a loss of \$17,977.77 and

Garment Carriers, Inc., for a four months' period ending October 31, 1960, operated at a profit of \$1,788.72 (Exhibits Nos. 5 and 8).^{2/}

Applicants called twenty-two shipper witnesses to testify in support of the applications. Fifteen of the companies represented had their principal places of business in Los Angeles, two in San Francisco, one each in Santa Monica, Glendale, Corona, San Bernardino, and Berkeley. Twelve were in the wearing apparel business, four represented general department stores dealing extensively in ladies' wearing apparel, two were in the costume jewelry business, two in the stationery business, one in the plastic business and one in soaps and related home products. The evidence clearly shows that the principal need of the large majority of the shipper witnesses is for the transportation of ladies' wearing apparel, matching accessories, and other merchandise incidental thereto; that the shipments they would offer to applicants, other than garments on hangers and dry goods, would not consist of freight of the kind usually considered as general commodity freight; that the said merchandise

^{2/} The sole or majority owner of the outstanding shares of each applicant is Frank J. Brown. Other affiliated companies also owned and/or controlled by Mr. Brown are: Randy's Delivery Service, a permitted carrier transporting garments on hangers in Los Angeles and vicinity; Atlas Properties, Inc., a corporation which owns the Los Angeles Terminal property rented to applicant, A & B Garment Delivery; and A & B Garment Delivery of San Francisco, which performs a transportation service in the San Francisco Bay area similar to that of A & B Garment Delivery in Los Angeles Basin area.

moves principally between Los Angeles and vicinity and points in the Los Angeles Basin area and between Los Angeles and the San Francisco Territory with a moderate movement to the described Sacramento Delta Area and named intermediate points. The testimony of the shipper witnesses was not impressive as to a general public need for an additional highway common carrier service for general commodities as herein proposed. One or two witnesses wanted another competing parcel carrier, and several indicated a particular desire for A & B Garment Delivery because the latter's present service of transporting garments on hangers was good. Others had no need whatsoever for more transportation than is now available to them. The proposal by applicants to use, for the present at least, their garment-on-hanger type of equipment and the shipper witness testimony in support of their request for a commodity highway common carrier certificate were not impressive.

Protestants United Parcel Service and 20th Century Trucking Company contend that applicants are merely seeking a package delivery service certificate and that the record not only lacks evidence to justify the granting of a general commodity certificate but a package service certificate as well. Said protestants presented evidence of their ability and willingness to handle the package transportation needs of the shipper witnesses. The other protestants, highway common carriers of general commodities in the areas proposed to be served, are opposed to the application as unjustified due to an excess of

service now available, the ability of said protestants and other carriers to meet the transportation needs of the witnesses, and because applicants are not expecting to immediately operate a general commodity service as indicated by the testimony of Mr. Brown to the effect that applicants would use the present special type equipment. The gist of protestants' position is that the certification of more and more carriers of general commodities is adverse to the public interest, would deplete revenues of existing operators, and result in poorer service and higher rates. Evidence presented by protesting carriers shows that they are qualified, able and willing to transport the merchandise handled by applicants' shipper witnesses, as well as general commodities, in the areas proposed herein.

Having considered the record, the Commission finds and concludes that an enlargement of the area now served by each of the applicants and the transportation of additional commodities as hereinafter set forth will meet a public need and would be a convenience to shippers, and that public convenience and necessity require that applicants establish and operate a highway common carrier transportation service to the extent hereinafter set forth. Applicants possess the experience, equipment, personnel and financial resources to institute and maintain such service. However, we are unable to find, upon the evidence that public convenience and necessity require that applicants be authorized to operate as highway common carriers of general commodities as requested. The applications will be granted in part and denied in part.

For the purpose of clarifying applicants' operating authority each will be issued a certificate which will supersede all existing certificates of public convenience and necessity heretofore granted to or acquired by them.

Garment Carriers, Inc., and A & B Garment Delivery are 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

A public hearing having been held, the Commission, being fully advised in the premises, finds and concludes that public convenience and necessity require that applicants establish and operate a highway common carrier service for the transportation of property as hereinafter set forth,

IT IS ORDERED that:

(1) A certificate of public convenience and necessity be and it hereby is granted to Garment Carriers, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined by

Section 213 of the Public Utilities Code, as more particularly set forth in Appendices A and B of Garment Carriers, Inc., attached hereto and made a part hereof.

(2) A certificate of public convenience and necessity be and it hereby is granted to A & B Garment Delivery, a corporation, authorizing it to operate as a highway common carrier, as defined by Section 213 of the Public Utilities Code, as more particularly set forth in Appendices A and B of A & B Garment Delivery, attached hereto and made a part hereof.

(3) In providing service pursuant to the certificates herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificates herein granted. By accepting the certificates of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their 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, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(4) The certificate of public convenience and necessity granted to Garment Carriers, Inc., in paragraph (1) of this order supersedes the certificates of public convenience and necessity granted by Decisions Nos. 48808 and 52994, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filing required by paragraph 3(b) hereof.

(5) The certificate of public convenience and necessity granted to A & B Garment Delivery in paragraph (2) of this order supersedes the certificates of public convenience and necessity granted by Decisions Nos. 35452, 35557, 36225, 38468, 43523, 44089 and 50331, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filing required by paragraph 3 (b) hereof.

(6) Decisions Nos. 49012, 51927 and 57412 issued to Garment Carriers, Inc., shall remain in full force and effect to the extent that they authorize applicant to publish and maintain the through service, through routes and joint rates as therein authorized.

(7) Decisions Nos. 42409, 41413, 45921, 49012 and 56709 issued to A & B Garment Delivery shall remain in full force and

effect to the extent that they authorize applicant to publish and maintain the through routes, through service and joint rates as therein authorized.

(8) Except as provided in paragraphs (1) and (2) above, Applications Nos. 42707 and 42708 are denied.

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

Dated at San Francisco, California, this 25th day of July, 1961.

[Signature] President
[Signature]
George H. Hoover
Fredrick B. Hallock Commissioners

Everett C. McKeage
Commissioner _____, being
necessarily absent, did not participate
in the disposition of this proceeding.

Garment Carriers, Inc., by a certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport:

(A) Garments, clothing and wearing apparel when transported on garment hangers, matching accessories and other commodities incidental thereto, including costume or novelty jewelry, when shipped in van-type trucks in company with garments, clothing and wearing apparel on hangers.

Between:

(1) Los Angeles and all points and places in the San Francisco Territory described in Appendix B attached hereto and made a part hereof;

(2) Los Angeles and all points and places in the Sacramento Delta Area described in Appendix B attached hereto and made a part hereof;

(3) San Francisco and all points and places in the Los Angeles Basin Area described in Appendix B attached hereto and made a part hereof;

(4) Los Angeles and San Francisco, on the one hand, and Fresno, Bakersfield, Modesto, Santa Barbara, Ventura and Oxnard, on the other hand.

(B) Cloth, dry goods or fabrics, in rolls, bundles, boxes or cartons between manufacturers, wholesalers, retailers and garment manufacturers, or any of them.

Issued by California Public Utilities Commission.

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Appendix A

Garment Carriers, Inc.
a corporation

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Between:

(1) All points and places in the Los Angeles Basin Area described in Appendix B hereof, on the one hand, and, on the other hand, all points and places in the San Francisco Territory and Sacramento Delta Area described in Appendix B hereof;

(2) All points in the said described Los Angeles Basin Area, San Francisco Territory and Sacramento Delta Area, on the one hand, and Bakersfield, Fresno, Modesto, Santa Barbara, Ventura and Oxnard, on the other hand.

Subject to the authority of this Commission to change or modify this by further order, applicant Garment Carriers, Inc., shall conduct operations pursuant to the certificate herein granted over and along the most convenient and direct routes, and may use any and all available alternate routes for operating convenience only.

End of Appendix A

Issued by California Public Utilities Commission.

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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; northeasterly 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; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly 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; southwesterly 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.

Issued by California Public Utilities Commission

Decision No. 62337, Application No. 42707.

SACRAMENTO DELTA AREA: The term "Sacramento Delta Area" is hereby defined to include the following points and places:

(a) All points and places along U.S. Highway 101, State Highways 37, 12 and 29 between the northerly boundary of the San Francisco Territory and junction of State Highway 29 and U.S. Highway 40, all off-route points within three miles on either side of U.S. Highway 101 between said San Francisco Territory boundary and Junction of State Highway 37, and the additional off-route points of Belvedere, Tiburon, Mill Valley, San Anselmo, Fairfax, Novato, Sonoma, and Napa;

(b) All points and places along U.S. Highway 40 between the boundary of the San Francisco Territory and North Sacramento, inclusive, and the off-route point of Dixon;

(c) All points and places along U.S. Highway 50 between the boundary of the San Francisco Territory and Sacramento and the off-route point of Pleasanton;

(d) All points and places on U.S. Highway 99 between Stockton and Modesto, inclusive;

(e) All points and places along State Highway 4 between junction thereof with U.S. Highway 40 and Stockton, inclusive, and the off-route points of Port Chicago and Byron;

(f) All points on State Highway 24 between the boundary of the San Francisco Territory and Pittsburg, inclusive, and the off-route point of Moraga;

(g) All points on State Highway 21 between Warm Springs and Martinez, inclusive;

(h) All points on State Highways 33 and 132 between Tracy and Modesto, inclusive.

Issued by California Public Utilities Commission

Decision No. 62337, Application No. 42707.

LOS ANGELES BASIN AREA includes all points and places within the following boundary: Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said County boundary to a point thereon distant 5 miles east of the intersection of said county boundary and U.S. Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 miles from U.S. Highway 91, State Highway 55, U.S. Highway 101, Laguna Canyon Road, and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

Issued by California Public Utilities Commission.

Decision No. 62337, Application No. 42707.

A & B Garment Delivery by a certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport:

Garments, clothing and wearing apparel when transported on garment hangers, matching accessories and other commodities incidental thereto, including costume or novelty jewelry, when shipped in van-type trucks in company with garments, clothing and wearing apparel on hangers.

Between:

All points and places within the Los Angeles Basin Area described in Appendix B attached hereto and made a part hereof.

Subject to the authority of this Commission to change or modify this by further order, applicant A & B Garment Delivery shall conduct operations pursuant to the certificate herein granted over and along the most convenient and direct routes, and may use any and all available alternate routes for operating convenience only.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 62337, Application No. 42708

LOS ANGELES BASIN AREA includes all points and places within the following boundary:

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said County boundary to a point thereon distant 5 miles east of the intersection of said county boundary and U. S. Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 miles from U. S. Highway 91, State Highway 55, U. S. Highway 101, Laguna Canyon Road, and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

Issued by California Public Utilities Commission.

Decision No. 62337, Application No. 42708.