

**ORIGINAL**

62690

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

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of JACK O. MURCH, an individual doing business as AMERICAN TRANSPORTATION COMPANY for an expansion and restate-ment of his certificate of public convenience and necessity to operate as a highway common carrier of general commodities, and the issuance of an in lieu certificate of public convenience and necessity.

Application No. 43238  
(Filed March 20, 1961)

Altagen & Rubin, by Milton W. Flack and Joseph L. Altagen, for applicant.  
Graham, James & Rolph, by Boris H. Lakusta and Robert L. Harmon, for the protestants.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf at Los Angeles, California, on April 27, June 19 and 20, 1961, and was submitted on June 20, 1961, subject to the filing of concurrent briefs which are now filed, and oral argument which was heard on August 2, 1961. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are: California Motor Express, Ltd. and California Motor Transport, Ltd.; Delta Lines, Inc.; Di Salvo Trucking Co.; Interlines Motor Express; Merchants Express of California; Southern California Freight Lines; Pacific Motor Trucking Co.; Shippers Express; Sterling Transit Co., Inc.; Valley Express Co. and Valley Motor Lines, Inc.; and Willig Freight Lines.

Applicant is a highway common carrier transporting general commodities generally in the Los Angeles City Area and holds, and operates pursuant to, radial, contract, and city carrier permits. Applicant requests authorization to extend such highway common carrier operations so as to transport general commodities between all points in the Los Angeles Basin Territory and between said territory and the San Diego Territory and intermediate points.

Applicant will assess the rates and charges specified in Minimum Rate Tariff No. 2. The proposed service will be daily, Monday through Friday, excepting Saturday, Sunday and holidays, and time in transit will be both the same day and overnight.

Exhibit No. 3 lists 41 vehicles operated by applicant. Exhibit No. 4 is a balance sheet and a profit and loss statement for the year 1960 and lists freight revenue for that year at \$155,500.54. Applicant has 16 employees of whom 12 are drivers. Applicant has been in the transportation business since 1928. Exhibit No. 2 is a list of major customers of applicant, 32 in number. Applicant proposes to procure an office and covered dock in San Diego 35 by 50 feet. Applicant has, and is, operating terminal facilities in Los Angeles and has plans for an increase in these facilities.

Applicant submitted the testimony of seven shipper witnesses in support of the application. The majority of these have been using applicant's service for many years and have found it very satisfactory. They testified generally that their business has been expanding and that they wish to continue to use the services of applicant in the Los Angeles Drayage Area and also in the large Los Angeles Basin Territory, that this drayage area has been

enlarged and is now commercially integrated into the Los Angeles Basin Territory and is a unified trading area for daily and overnight service required by their customers, that it is inconvenient for them to select different carriers for shipments to the Los Angeles Drayage Area and the larger basin territory, and that this causes congestion at their shipping docks.

The testimony of applicant and the shippers is that the proposed extension of the service to include the entire Los Angeles Basin Territory would enable applicant to give direct single line service to all the customers, would speed up the service to the enlarged territory, reduce dock congestion, eliminate double handling and invoicing and otherwise increase efficiency.

The shippers also testified that they would use the San Diego service if provided, but there was no substantial evidence as to the need for such service.

Four of the protestants testified as to existing services and that traffic to San Diego had been decreasing. One carrier testified to the necessity of closing a terminal at Riverside, California, due to a reduction in freight traffic sufficient to make it unprofitable to maintain. Protestants testified that they are unable to obtain enough traffic to produce efficient utilization of equipment. The testimony of protestants did not disclose a reduction of personnel, equipment or facilities in the Los Angeles area and some of the carriers were planning an increase of their facilities in this area.

We find that the evidence does not establish that public convenience and necessity require applicant be authorized to operate as a highway common carrier of general commodities to the San Diego Territory. The application will be granted in part and denied in part.

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, as hereinafter set forth.

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:

1. That a certificate of public convenience and necessity be, and it is, granted to Jack O. Murch 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 more particularly set forth in Appendices A and B attached hereto and hereby 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. 55203, dated July 2, 1957, which certificate is hereby revoked, said

revocation to become effective concurrently with the effective date of tariff filings required by 2.(b) above. Except as provided in paragraphs 1 and 2 above, the application is denied.

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

Dated at San Francisco, California, this 17th day of October, 1961.

*Charles W. Page*  
 President

*John E. ...*

*E. ...*

*Frederick B. Holoboff*

Commissioners

Jack O. Murch, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places in the Los Angeles Basin Territory as described in Appendix B attached hereto. 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 refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers 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.

Issued by California Public Utilities Commission.

Decision No. 62699, Application No. 43238.

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard 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 the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwestly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.