

ORIGINAL

62703

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WESTERN FREIGHT HANDLERS, INC., a)
corporation, for a certificate of)
public convenience and necessity to)
operate as a highway common carrier.)

Application No. 43427
(Filed May 22, 1961)

Daniel W. Baker, for applicant.
Ray A. Greene, for Associated Freight Lines,
California Motor Express, Ltd., California
Motor Transport, Ltd., Constructors
Transport Co., Delta Lines, Inc., Merchants
Express of California, Pacific Motor
Trucking Co., Oregon-Nevada-California Fast
Freight, Southern California Freight Lines,
Valley Express Co., Valley Motor lines, Inc.,
and Willig Freight Lines, and William M.
Edwards, for Paxton Trucking Co., protestants.

O P I N I O N

This application was heard before Examiner Rowe at Sacramento on July 11, 12 and 13, 1961. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. On the latter date the matter was continued to September 6, 1961, with the understanding that if protestants should sooner withdraw their protests the matter would stand submitted. All protestants have now withdrawn their protests in view of applicant's amendment to the application whereby it agrees to restrict itself to shipments of 5,000 pounds or more of construction, mining and logging equipment, materials and supplies and to the transportation of other commodities, which because of size, bulk or weight require special equipment or handling, and materials, parts and supplies that are appurtenant to or a necessary part thereof.

Applicant is a highway permit carrier engaged in the transportation of very heavy and bulky commodities and machinery primarily from and to Sacramento and points northerly, easterly and southerly as far as Merced and westerly to San Francisco, Davis and Red Bluff. This application as amended requests authorization to conduct operations as a highway common carrier for the transportation of such heavy machinery, equipment and freight. Applicant proposes to file a tariff substantially the same as the Commission's Minimum Rate Tariff No. 2. It proposes to charge at an hourly rate for the use of its low bed equipment.

During the three days of hearing applicant introduced evidence of its experience, equipment and financial condition. One of the reasons for asking for certificated rights is its desire to have more substantial and permanent operative rights before it makes a more substantial investment in the very heavy and expensive equipment it now needs. The representatives of numerous shippers of heavy equipment, machinery and other heavy freight testified as to their respective firms' need for the proposed service.

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 as amended be granted as set forth in the ensuing order.

Western Freight Handlers, 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 is granted to Western Freight Handlers, Inc., a corporation, authorizing it 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 to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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.

Greene W. Page
President
W. L. Mitchell
E. L. Fox
George H. Grover
Fredrick B. Haloboff
Commissioners

Western Freight Handlers, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the following commodities:

- a. Construction, mining and logging machinery, equipment, materials and supplies restricted to shipments weighing 5,000 pounds or more.
- b. Commodities which by reason of size, bulk or weight require special equipment or handling, and materials, parts and supplies that are appurtenant to or a necessary part of such commodities.

between the following points, subject to the restrictions herein-after set forth:

1. All points and places in the San Francisco Territory as described in Appendix B attached hereto.
2. All points and places on or within 25 miles laterally of the following highways:
 - (a) U. S. Highway 40 between Richmond and the California-Nevada state line, inclusive.
 - (b) U. S. Highway 50 between Hayward and the California-Nevada state line, inclusive.
 - (c) U. S. Highways 99, 99-W and 99-E between Red Bluff and Merced, inclusive.

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- (d) U.S. Highway 40-Alternate between U. S. Highway 40 near Davis and the California-Nevada state line near Peavine, inclusive.
- (e) State Highway 36 between Red Bluff and Johnstonville, inclusive.
- (f) U. S. Highway 395 between Johnstonville and the California-Nevada state line near Peavine, inclusive.
- (g) U. S. Highway 395 between the California-Nevada state line near Topaz Lake and Lee Vining, inclusive.
- (h) State Highway 32 between Chico and State Highway 36, inclusive.
- (i) State Highway 89 between State Highway 36 and U. S. Highway 395 near Topaz Lake, inclusive.
- (j) Unnumbered highway between U. S. Highway 40-Alternate and Quincy, via Honcut, La Porte and Nelson Point, inclusive.
- (k) State Highway 49 between Sattley and State Highway 120 at Yosemite Junction, inclusive.
- (l) State Highway 20 between Williams and U. S. Highway 40 near Cisco, inclusive.
- (m) State Highway 24 between Oakland and Sacramento, inclusive.
- (n) State Highway 4 between U. S. Highway 40, near Pinole, and State Highway 89, near Markleyville, inclusive.
- (o) State Highway 120 between U. S. Highway 50, near Lathrop, and Lee Vining, inclusive.
- (p) State Highway 108 between Sonora and U. S. Highway 395, near Tales Hot Springs, inclusive.

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Restrictions:

1. Applicant shall not transport shipments to, from or between any point in Sonoma County.

2. Applicant shall not transport shipments of less than 10,000 pounds from, to or between points on the following highways:

(a) State Highway 89 between Truckee and Tahoe Valley.

(b) U. S. Highway 50 between Tahoe Valley and the California-Nevada state line.

Through routes and rates may be established between any and all points and places specified in subparagraphs 1 through 2(p) above. Applicant may use any and all available alternate routes for operating convenience only.

End of Appendix A

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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; southwestwardly 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, Harbord 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; southwestwardly 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.