

ORIGINAL

Decision No. 62973

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
)
 RALPH S. NEWCOMER, doing business as)
 REAL TRANSPORTATION COMPANY, for an)
 in lieu certificate of public)
 convenience and necessity as a highway)
 common carrier of general commodities)
 in the Los Angeles Basin Territory,)
 pursuant to Sections 1063-1064 of the)
 California Public Utilities Code.)

Application No. 43202
(Filed March 8, 1961)

Gall & Gall, by John U. Gall, for applicant.
 Graham James & Rolph, by Boris Lakusta and Leo J. Vander Lans, for protestants.
 Donald Murchison, by Leo J. Vander Lans, for
 Los Angeles City Express, Inc. and Inter City
 Truck and Delivery Service, Inc., interested
 parties.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf at Los Angeles on May 10 and July 10 and 11, and was submitted on July 11, 1961, subject to the filing of concurrent briefs which are now filed.

The protestants are Boulevard Transportation Company, California Cartage Company, Inc., California Motor Express, Ltd. and California Motor Transport Co., Ltd., Delta Lines, Inc., Interlines Motor Express, Merchants Express of California, Oregon-Nevada-California Fast Freight and Southern California Freight Lines, Pacific Motor Trucking Co., Shippers Express Company, Sterling Transit Co., Inc., Valley Express Co. and Valley Motor Lines, Inc., and Willig Freight Lines.

Applicant is a highway common carrier presently transporting general commodities within the Los Angeles Territory under Decision No. 54012, dated October 30, 1956. He also holds permits as a radial highway common carrier, highway contract carrier and city carrier. He requests authorization to extend such highway common carrier operations so as to transport general commodities between all points in the enlarged Los Angeles Basin Territory, and to conduct an on-call service except Sundays and holidays with same-day service when needed.

Applicant is a party to Western Motor Tariff Bureau, Inc., Local Joint and Proportional Freight Tariff No. 17-A, Cal. P.U.C. No. 33 (Elmer Ahl, Agent, Series), W. J. Knoell, Issuing Officer, in the publication of his rates and charges. He proposes to establish rates in conformity with those now published or hereinafter published in the above-described tariff for the proposed extended service.

The financial condition of applicant is satisfactory. It includes total assets of \$241,624.03, and a net worth of \$94,236.65. Gross revenue for the year 1960 was \$326,484.57. The facilities consist of 1-1/2 acres of paved and fenced service yard, a 12,000-foot freight terminal under roof and a six-car rail spur, together with the necessary office space and service improvements to operate his business. He has had 26 years of experience in the motor carrier transportation field, and 13 years as the owner and operator of Real Transportation Company, dealing exclusively in local cartage transportation.

Shipper witnesses testified that industry in the Los Angeles Territory is increasing in such outlying communities as

San Bernardino, Riverside, Colton, Santa Ana, Anaheim, Fullerton, Pomona, Ontario, and San Fernando and vicinity. Each of these communities require on a daily basis goods and services originating within the Los Angeles Territory. Shipper witnesses testified that the growth of these areas have called for an increasing percentage of their products to be delivered outside of the Los Angeles Territory.

Shipper witnesses have described their service requirements into the Los Angeles Basin Territory as having large accounts located in La Habra and El Monte. Deliveries are made to San Bernardino and Riverside regularly at least weekly. Azusa, West Covina, Pomona, La Puente, and portions of Orange County are considered a part of the local drayage area. Shipments are made every day to all points in the Los Angeles Basin Territory. Los Angeles Basin Territory is a part of the Los Angeles Metropolitan Area and sales are made in the area on a local basis.

Many of the shipper witnesses have experienced dock congestion problems which require the limiting and scheduling of carriers using their facilities for pickup and delivery.

Exhibits Nos. 1 to 8 describe applicant's equipment, terminals, authority and financial condition.

Exhibit No. 9 is a copy of the Commission report on the operations of carriers of property for 1960.

Exhibits Nos. 10 to 42 describe the operating authority, maps, points, lists, equipment, terminals and employees of seven protestants.

It is essential and economical for these shippers to use a single carrier for all their merchandise to the points involved; the applicant's service has been highly satisfactory and they will continue to use it as a regular operation.

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 record herein shows that protesting carriers operating within the Los Angeles Basin Territory possess the experience, equipment, personnel, and financial resources to carry the additional freight traffic over this route. The claim of protestants, that dilution of their traffic will result from the requested 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.

Ralph S. Newcomer 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 Ralph S. Newcomer authorizing him 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. 54012, dated October 30, 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 ~~five~~ ^{Twenty} days after the date hereof.

Dated at San Francisco, California, this 27th day of DECEMBER, 1961.

[Signature]

President

[Signature]

Fredrick B. Holloff

Commissioners

~~Commissioners~~ C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

Ralph S. Newcomer, 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, pigs, oxen, 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 semiplastic 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

Issued by California Public Utilities Commission.

Decision No. 62973, Application No. 43202.

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.