

ORIGINAL

Decision No. 62997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Mainline Transportation System, a
corporation, for a certificate of
public convenience and necessity to
operate as a highway common carrier
of general commodities (with named
exceptions) between the points and
places in the Los Angeles Basin
Region, as defined, and San Diego
Territory, pursuant to Sections
1063-1064 of the Public Utilities
Code.

Application No. 42764
(Filed October 17, 1960)

Peter W. Drizin, for applicant.
Russell & Schureman, by William R. Pippin and
R. Y. Schureman, for Quikway Trucking
Company, Square Deal Trucking Company, and
National Trucking Company; Graham James &
Rolph, by Boris H. Lakusta, Robert L. Harmon
and Leo Vander Lans, for Associated Freight
Lines, California Motor Express, Ltd., and
California Motor Transport Company, Ltd.,
Delta Lines, Inc., Di Salvo Trucking Company,
Fortier Transportation Company, Interlines
Motor Express, Merchants Express of Cali-
fornia, Oregon-Nevada-California Fast Freight
and Southern California Freight Lines, Pacific
Motor Trucking Company, Shippers Express,
Sterling Freight Lines, Valley Express Company
and Valley Motor Lines, Inc., and Willig
Freight Lines, protestants.

O P I N I O N

The application was heard before Examiner Kent C. Rogers at Los Angeles, California, on January 13, March 4, May 22, May 23, July 31, and August 1, 1961. It was submitted on the latter date, subject to the filing of briefs. These have been filed and considered. Copies of the application and notice of hearing were

served in accordance with the Commission's procedural rules. The protestants are listed above.

Applicant is a highway permit carrier and a city carrier engaged in the transportation of general commodities, with exceptions, within a radius of 50 miles of the City of Los Angeles. It is also carrying interstate traffic shipped into Los Angeles by rail and boat. It delivers this merchandise in and around Los Angeles. Between 40% and 75% of applicant's total carriage is the distribution of the interstate rail traffic, 10% to 15% is the distribution of interstate boat traffic, and the balance consists of the local traffic.

Applicant requests authorization to conduct operations as a highway common carrier for the transportation of general commodities, with exceptions,

- a. Between points in a defined Los Angeles Basin Region, which is slightly smaller than the Los Angeles Basin Territory,
- b. Between points and places in said region, on the one hand, and the San Diego Territory, on the other hand,
- c. Between points and places in the San Diego Territory,
- d. Between points and places in said territory or region, on the one hand, and all intermediate points along U. S. Highways Nos. 101 and 395, including points within ten miles on each side of said highways, on the other hand, and
- e. Between any two points on said Highways Nos. 101 and 395, between the said territory and region.

Applicant is a California corporation formed in June, 1959. Its President and sole stockholder at the time of the hearing was

Louis Rubin, its Secretary-Treasurer is Enid Rubin, and its Vice-President is Stella Meltzer. Louis Rubin owned the Louis Rubin Trucking Company between the years 1955 and 1960. In February, 1961, he purchased all of the issued stock of applicant corporation and assumed all of its obligations.

The carrier's financial statements filed in this proceeding indicate that its volume of business has been increasing. Exhibit D, filed with the application, shows gross revenues for the fiscal year ended May 31, 1960 at \$9,365, with a cash flow from operations (before depreciation charges) of \$952, whereas Exhibit No. 3 shows gross revenues for the fiscal year ended May 31, 1961, at \$64,819, with a cash flow from operations of \$5,566. The record further shows that during the 1961 fiscal year, the company increased its fleet of equipment from eight units to 12 units and its investment in tangible assets from \$10,867 to \$28,514, and that it financed its increased investment largely with contracts payable which aggregated \$11,650 as of the end of May, 1961, of which amount \$5,082 is payable later than one year after date of execution.

Exhibit No. 3 includes among the assets an item of \$9,250 which represents intangible capital, apparently good will or purchase price of operative rights, about which some question was raised at the hearing. Deducting this item from proprietary capital, the following tabulation has been prepared from Exhibit No. 3 indicating the company's financial position as of May 31, 1961:

Current and prepaid assets	\$8,538	
Less-Current liabilities	<u>8,090</u>	
Net current and prepaid assets		\$ 448
Depreciable assets, less reserve	13,986	
Less-Long-term contracts	<u>5,082</u>	
Net depreciable assets		<u>13,904</u>
Total		<u><u>14,352</u></u>
Represented by -		
Proprietary capital	23,602	
Less-Intangible capital	<u>9,250</u>	
Balance		<u><u>14,352</u></u>

Applicant has two tractors, two trailers, and eight pickup trucks, two of which are equipped with tailgate lift equipment. In addition, it has four leased pickup trucks. It has a total of 12 employees, excluding its president, consisting of six drivers, four carloaders, and one office girl.

The applicant has a terminal at 2151 East 7th Street, Los Angeles, and truck space at 2160 East 7th Street. The dock space at 2151 East 7th Street will accommodate 15 trucks and applicant loads and transfers merchandise thereat. This place is owned by one of applicant's customers who permits it to use the facility free of charge. The space at 2160 East 7th Street is the location of applicant's office for which it pays \$50 per month on a month-to-month tenancy. It has no other terminals. Equipment will be repaired and serviced at local garages or service stations.

Applicant proposes to provide a daily overnight service between all points with same-day service on request in the Los Angeles Basin for early pickup and same-day service to San Diego for pickups made by 10:00 a.m.

Applicant will subscribe to a tariff service and will charge minimum rates prescribed by this Commission.

Asked why he desired the certificate, applicant's president replied, "Well, mainly the accounts that I have are suffering and I don't think that anybody can give them the service that I am able to give them if I was to receive these rights."

Applicant presented five witnesses in support of its request for authority to serve the major portion of the Los Angeles Basin Territory, all of the San Diego Territory and all points in between within ten miles on each side of U. S. Highways Nos. 101 and 395.

The manager of Mel-Ro Textile & Supply Co. testified that that company is situated in San Diego and has no branch offices. It furnishes all supplies used in the laundry and dry cleaning industry and ships 100 to 5,000 pounds of merchandise and supplies daily from San Diego to Oceanside, Fallbrook, Escondido, San Clemente, Ramona, Poway, Santa Ana and/or the Marine Base at El Toro, the latter two being the only destinations in the Los Angeles Basin Territory. It has been using highway common carriers for outbound shipments. It had no shipments from the San Diego Territory to points near U. S. Highway No. 395 in the proposed service area.

This company receives the bulk of its goods from Los Angeles in daily shipments and has used four carriers for this service. On one occasion, it needed same-day delivery of a small shipment. It requested service from Los Angeles to San Diego by the applicant in the morning and the shipment was picked up and delivered by the applicant that same day. The witness said it has required on occasion approximately three days to secure delivery of a shipment from San Fernando to San Diego.

Wesco Merchandise Co. is located in Los Angeles. It handles general merchandise including housewares, toys, kitchen tools, etc., and ships daily to the San Diego Territory. Its problem is that allegedly there are several trucking companies that go down to the San Diego Territory, but do not serve all points so the company has to use several carriers and desires to confine its service from Los Angeles to the San Diego Territory to one carrier. It currently uses three carriers to various San Diego Territory points and as a result has too many coming to its dock. In addition, the company is getting complaints from its customers that its

carriers deliver too late in the day in San Diego. This shipper serves the Los Angeles Basin Territory with its own trucks. The witness said the company wants the personal service a small carrier gives.

Sinclair Paint Co. is in Los Angeles. A witness appeared for a branch thereof which sells and ships wallpaper only. At present the applicant carries this material from the harbor to the shipper's place of business (interstate shipments). Shipments are made almost daily to job sites (housing developments) in the Los Angeles area in the vicinity of Riverside, Orange County, or San Bernardino. This company also ships to San Diego by Southern California Freight Lines. It would use applicant for these services. It needs same-day service and can get it from the applicant on early-morning calls. All the other carriers give next-day service, as far as the witness knew.

An employee of Standard Merchandise Co. of San Pedro stated that that company is a wholesaler of housewares, health and beauty aids sold through chain stores; that the company uses its own trucks to the Los Angeles Basin Territory west of Riverside, except for large shipments; that it has a warehouse in San Diego; that the company ships there every second or third week and the shipments are two to three tons; that the company is not complaining about the available carrier service; that the company wants an earlier pickup of freight; that this earlier pickup is given by the smaller carriers; and that the applicant informed the witness it could have pickups when it desired.

The Affiliated Metal Products of Los Angeles distributes stainless steel in sheets and coils. The coils weigh from 200 pounds to 1,500 pounds each and the sheets come in bundles of 1,000 pounds or more. The company needs a same-day service into the San Diego Territory. Shipments vary from 2,000 pounds to 15,000 pounds. The company has seven trucks of its own which it uses to the Los Angeles Basin Territory, but it needs a same-day service into San Diego. The witness stated that it does not actually expect a same-day service as its shipments are ready too late in the day.

Protestants called as witnesses representatives of five highway common carriers and the parties stipulated that if representatives of two other such carriers appeared they would testify similarly to one of the appearing protestants. These appearing protestants included Southern California Freight Lines, Quikway Trucking Company, Merchants Express of California, National Trucking Company, and Square Deal Trucking Company. The stipulated appearances were California Motor Express, Ltd., and Sterling Freight Lines.

Each of the carriers, on behalf of which an appearance or evidence was presented, serves to, from, and between points in the Los Angeles Basin Territory and between said basin territory and the San Diego Territory, with the exception of one company, which only serves between the City of Los Angeles and the San Diego Territory. One of the carriers has several terminals in the Los Angeles Basin Territory. Most of them have terminals in both Los Angeles and San Diego. Each of the carriers has numerous pieces

of equipment, advertises its services, solicits business and needs or desires additional freight. It was pointed out that there are at least 20 carriers serving between the Los Angeles Basin Territory and the San Diego Territory and at least double that number of highway common carriers serving between points in the Los Angeles Basin Territory. The representatives of the carriers each stated that his company has extra space available for freight, or has equipment which is idle because of lack of business. Several of the appearing carriers provide a same-day service, either as a matter of course, or on demand, between points in the Los Angeles Basin Territory.

The record herein shows that a substantial segment of the public desires and needs applicant's proposed highway common carrier service (a) between all points in the Los Angeles Basin Region as defined by applicant, on the one hand, and the San Diego Territory, on the other hand, serving no intermediate points, and (b) between all points in the San Diego Territory. The record fails to show that any additional service is required between points in the said Los Angeles Basin Region, nor is there any showing of a need for any local service between points on or within ten miles of U. S. Highway No. 101 or U. S. Highway No. 395, or between any of said points, on the one hand, and any point in either the Los Angeles Basin Area, or the San Diego Territory, on the other hand, and authority to render the latter types of service will be denied.

Having considered the record, the Commission finds and concludes that public convenience and necessity require that applicant be granted a certificate of public convenience and necessity

as a highway common carrier as set forth in the order herein and that applicant possesses the experience, facilities, equipment, personnel and financial resources to establish and maintain the service as herein authorized. Except as herein authorized, the application will be denied.

Mainline Transportation System 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, public hearings 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 Mainline Transportation System, 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 more particularly set forth in Appendix A and Appendix 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.

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

Dated at San Francisco, California, this 2nd day of JANUARY, 1962

Everett L. Rogers
President
J. E. [unclear]
C. [unclear]
Frederick B. Halblom

Commissioners

Mainline Transportation System, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to transport general commodities:

(a) Between all points in the Los Angeles Basin Region as said region is defined in Appendix B attached hereto, on the one hand, and all points in the San Diego Territory, as said territory is defined in Appendix B attached hereto, on the other hand.

(b) Between points in said San Diego Territory.

Mainline Transportation System shall render no service locally between points within the Los Angeles Basin Region; nor shall it render service to, from or between points intermediate between the Los Angeles Basin Region and the San Diego Territory.

Mainline Transportation System shall not transport 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.

Issued by California Public Utilities Commission.

Decision No. 62997, Application No. 42764.

LOS ANGELES BASIN REGION includes that area 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 and San Bernardino National Forests to the point of intersection of said southerly boundary of the San Bernardino National Forest and 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, Niguel Road, Laguna Canyon Road, and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

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 and 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.

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