

ORIGINAL

Decision No. 63131

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TORREY TRUCKING, INC., a corporation,)
for a certificate of public conven-)
ience and necessity to operate as a)
highway common carrier for the)
transportation of property.)

Application No. 43023
(December 30, 1960)

Berol & Geernaert by Bruce R. Geernaert, for applicant.
Graham James & Rolph, by Boris H. Lakusta and Robert L. Harmon; and Phil Jacobson, for protestants.

O P I N I O N

This application was heard before Examiner Robert D. DeWolf at Los Angeles, California, on May 16 and 17 and August 3, 1961, and at San Diego, California, on May 18, 1961, and was submitted on August 3, 1961, subject to the filing of concurrent briefs which have been received. 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., California Motor Transport, Ltd., Delta Lines, Inc., Di Salvo Trucking Company, Interlines Motor Express, Merchants Express of California, Southern California Freight Lines, Pacific Motor Trucking Company, Shippers Express Company, Sterling Transit Company, Inc., Valley Express Co., Valley Motor Lines, Inc., Willig Freight Lines, La Salle Freight Company, Cal Canadian Motor Express, Thomas Morrow Trucking Company, V. R. Anderson, and C. M. Monson.

Applicant is a highway permit carrier engaged in the transportation of general commodities between San Diego and Los Angeles and San Diego and Winterhaven. Applicant requests authorization to conduct operations as a highway common carrier for the transportation of general commodities between the San Diego Territory, on the one hand, and the Los Angeles Basin Territory and points on U.S. Highway 80 between San Diego and Winterhaven, on the other hand; also between the Los Angeles Territory and the Los Angeles Basin Territory.

Applicant proposes that the rates to be assessed for this service, and the rules and regulations covering the same, shall be those established as a minimum by the Commission, as contained in Minimum Rate Tariff No. 2, and such other tariffs of the Commission naming minimum rates, rules and regulations applicable to the transportation of commodities proposed to be transported between the points involved herein.

Applicant proposes to render an on-call service daily except Saturdays, Sundays and holidays, with overnight delivery and same-day delivery when requested.

Applicant operates a total of twenty-two pieces of equipment including nine tractors and twelve trailers, all late models, with four being new refrigerator trailers, and utilizes fifteen regular employees. Applicant maintains terminal facilities at Los Angeles and La Mesa, near San Diego, consisting of 4-1/2 acres with approximately 6,000 square feet under roof, with loading bays, mechanical and warehouse facilities, at La Mesa, and a little more than half an acre trucking area at Los Angeles with approximately 3,000 square feet under roof, all paved, with office and rail facilities adjacent.

Exhibits Nos. 1 and 2 are a balance sheet and income statement of applicant.

Exhibit No. 3 is a shipment study of applicant's operations from April 1, 1960 to April 1, 1961.

Exhibits Nos. 4 to 10, inclusive, contain statistical information regarding business growth in the San Diego Area for the past ten years.

Exhibits Nos. 11 to 29, inclusive, describe the operating rights, equipment, terminals, points lists and facilities of four of the five protestants who submitted evidence.

Applicant called twenty shipper witnesses and two public witnesses. The majority of the shipper witnesses testified that applicant is providing a necessary and specialized transportation service when they need it, with next-day delivery. Seven of the shippers required refrigerated equipment and mostly same-day delivery when requested, and testified that applicant furnished late-model equipment and satisfactory service. Ten of the shippers, all of whom were presently using the applicant, testified as to the need for service to the Imperial Valley. At least three of the shippers testified that they would use a regular schedule with published rates by this applicant and such would enable them to avoid use of their own trucks. The two public witnesses testified to the growth of the San Diego Area and the projected increase of harbor and warehouse facilities in the vicinity.

The protestants submitted the testimony of five witnesses, representing the protesting carriers, who testified that they have unused space in their equipment and that any increase in applicant's authority will reduce their traffic and cause an increase in rates.

Findings and Conclusions

Upon consideration of the evidence, the Commission finds and concludes as follows:

1. Applicant is providing a necessary and specialized service for the shippers who testified in its behalf.

2. Each has substantial need for the proposed service to give him a published rate and a single-line operation for regular service with the equipment required, to all points in the proposed territory.

3. This will reduce time in transit, dock congestion and otherwise improve the present service.

4. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

5. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

Torrey Trucking, 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

Public hearings 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 Torrey Trucking, 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, B, C and D, 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 18th
day of JANUARY, 1962.



President







Commissioners

Torrey Trucking, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between the points as hereinafter described.

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. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.

Issued by California Public Utilities Commission.

Decision No. 63131, Application No. 43023.

Applicant is authorized to operate between the following points and places subject to the restrictions hereinafter noted:

1. Between the San Diego Territory, as described in Appendix B attached hereto, on the one hand, and the Los Angeles Territory, as described in Appendix C attached hereto, including all intermediate points on U.S. Highways 101 and 101 Alternate, on the other hand.
2. Between said San Diego Territory, Los Angeles Territory and intermediate points on U. S. Highways 101 and 101 Alternate, on the one hand, and the Los Angeles Basin Territory as described in Appendix D attached hereto, on the other hand.
3. Between said San Diego Territory, on the one hand, and points on and within 15 miles laterally of U. S. Highway 80 between San Diego Territory and Winterhaven, inclusive, on the other hand.

Applicant may traverse any and all public highways, streets or roads between points it is authorized to serve, for operating convenience only.

RESTRICTIONS:

Applicant shall not provide local service between points of origin and destination both of which are:

- (a) Within the San Diego Territory.
- (b) Within the Los Angeles Basin Territory except as otherwise provided in subparagraph 2 above.
- (c) Between the northern boundary of the San Diego Territory and the southern boundary of the Los Angeles Basin Territory, except as otherwise provided in subparagraph 2 above.
- (d) On U. S. Highway 80 between the easterly boundary of the San Diego Territory and Winterhaven.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 62121, Application No. 43023.

APPENDIX B TO DECISION NO. 63131

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 on 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.

APPENDIX C TO DECISION NO. 63131

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101 Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U. S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to Lower Azusa Road; easterly on Lower Azusa Road to its intersection with the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to State Highway No. 26; westerly along State Highway No. 26 to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.

APPENDIX D TO DECISION NO. 63131

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; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly 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; southwesterly 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.