

**ORIGINAL**Decision No. 63395

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC INTERMOUNTAIN EXPRESS CO.,  
 a corporation, for a certificate of  
 public convenience and necessity.

Application No. 43095  
 (Filed January 24, 1961)

W. S. Pilling and Earl J. Brooks, for applicant.  
Willard S. Johnson, for J. Christenson Co., protestant.  
Boris H. Lakusta, of Graham James & Rolph, for  
 Associated Freight Lines, 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 Company, Shippers Express, Sterling  
 Transit Co., Inc., Valley Express Co. and Valley  
 Motor Lines, Inc., Willig Freight Lines and  
 Constructors Transport Co., protestants.

O P I N I O N

This application was heard before Examiner Edward G. Fraser on April 14 and 27, 1961, in Los Angeles and August 21, 22 and 23, 1961, in San Francisco. The matter was submitted on concurrent briefs filed on November 6, 1961. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

The applicant is a Nevada Corporation operating primarily as an interstate carrier (Exhibits Nos. 18 and 19). It is operating in California under permitted authority as a radial highway common carrier, a highway contract carrier and a city carrier. The applicant also operates under certificated authority as a petroleum irregular route carrier and as a highway common carrier of general commodities. The latter authority includes

certificates originally granted to West Coast Fast Freight, Inc., a predecessor company, Public Freight System, and Bond Trucking Co.; all of these rights were transferred to the applicant by Decisions Nos. 52299, 53951 and 60106, respectively. The applicant now requests that all of its highway common carrier operating authorities be combined in an in lieu certificate. It now operates between the following points and over the following routes:

(1) between all points in the Los Angeles metropolitan area, on the one hand, and Fontana, on the other hand, including intermediate points on or within three miles of Highway 66 and Highway 99; (2) between the Los Angeles Territory, on the one hand, and Oakland, San Francisco, South San Francisco, Alameda, Berkeley, San Pablo, El Cerrito, Emeryville, Richmond, San Leandro, Albany, and Piedmont, on the other hand; (3) between all points in the Los Angeles metropolitan area; (4) between all points in the Los Angeles metropolitan area, on the one hand, and, on the other, all points on specified routes in the "extended service area" (an area to the east of the metropolitan area which includes Pomona, San Bernardino, Redlands, Colton, Riverside, Arlington, Corona, Whittier, Fullerton, Anaheim, and Santa Ana); (5) between all points in an area which approximates the Los Angeles metropolitan area plus the "extended service area"; and (6) between Los Angeles and San Diego (not including intermediate points).

Applicant also seeks an extension of the above authorities, to include: (1) intermediate points between the Los Angeles Basin Territory and the San Diego Territory on Highways 101, 101 alternate, and 99/71/395; (2) between all points in the Los Angeles Basin Territory; (3) between the San Francisco Territory

and the Los Angeles Basin Territory, via Highways 50/120/99 and 101, including all intermediate points; (4) between Sacramento and Manteca via Highway 99, including intermediate points; (5) between the San Francisco Territory and Sacramento, and points within 20 miles of Sacramento, via Highways 40, 50 and 40/4/50, including intermediate points; and (6) five mile laterals from each route above described.

Applicant is a corporation organized and existing under the laws of the State of Nevada. It filed copies of its original Articles of Incorporation with the Secretary of State of the State of California on July 5, 1945 and with this Commission in Application No. 27234, filed on February 27, 1946. The various Amendments to the original Articles have been filed in this proceeding and are attached to the original Application No. 43095. Operations are conducted out of headquarters in Oakland and terminals in San Francisco, Emeryville, Fresno, Los Angeles, Long Beach, Pomona, Sacramento, San Jose, Stockton, and San Diego (Exhibit No. 7). The Equipment List (Exhibit No. 2) shows as of June 30, 1960, the applicant had 1,226 pieces of pickup and delivery equipment, 629 line haul tractors and 1,437 line haul trailers for a total, including 66 passenger cars, of 3,408 items. The applicant's balance sheet as of December 31, 1960 (Exhibit No. 8) indicates that Pacific Intermountain Express Co. has total current assets of \$8,792,145, net tangible property of \$17,621,929 and total assets of \$31,479,969; current liabilities total \$5,097,131, and long term obligations \$10,315,369. The "Income Statement For Year Ending December 31, 1960" (Exhibit No. 9) shows

a net income before income taxes of \$1,033,279, income taxes of \$327,322 and a net income of \$706,551.

An officer of the applicant testified that many of their customers are demanding service throughout the area applied for in this application; also that intrastate traffic between Sacramento and Southern California is now shipped first to the applicant's Oakland terminal where it is transferred to other vehicles en route to Los Angeles. The witness testified that the applicant performs this service under its radial permit. He further testified that, if the extension requested in this application is granted, the applicant will be able to transport direct from Sacramento to Los Angeles on the southern end of the Portland-Seattle schedule, operating over U. S. Highway No. 99.

The witness stated that Pacific Intermountain Express Co. can now serve under its certificates named points in the San Francisco Bay Area, the Los Angeles Basin Territory and the San Diego Territory, but is not authorized to render service to all points in these areas, or to intermediate points. He testified that many shippers are constantly offering freight destined to those points the applicant cannot serve under its present authority; also the applicant cannot require all drivers to be able to advise shippers as to what points the applicant can serve as a certificated carrier. If the application is granted, Pacific Intermountain Express Co. will have the authority to serve all points on the main routes over which it operates and will provide overnight or second-day service from the San Francisco Bay Area to Los Angeles and second-morning service from Sacramento to San Diego. The service will be scheduled on 5 or 6 days a week depending on the

points served. The rates charged will normally be on the level of those in Minimum Rate Tariff No. 2, although other tariffs will also be applied.

The applicant called seventeen shipper witnesses, five in San Francisco and twelve in Los Angeles. They ship industrial oils, paper products, hardware and sporting goods, electronic instruments, rocket boosters and motors, steel and wood furniture, wood products, office furniture, china and pottery bathroom fixtures, plastic and metal housewares, ladies undergarments, housewares, kitchenware, and ice cream and soda fountain topping and supplies. Several of the San Francisco witnesses testified they use the applicant for interstate shipments and would prefer to load their intrastate traffic at the same time; others testified they prefer the applicant's policy of leaving trailers until they are fully loaded. The shippers appearing for the applicant in San Francisco were primarily concerned with the proposed service between the Bay Area and Southern California, although several require occasional service to Stockton and Sacramento. One Sacramento maker of rocket motors (Aerojet) requires service from Sacramento to San Francisco and Los Angeles. This shipper favors the applicant because some of the latter's equipment has been modified to give better service; also weekend and holiday pickups are made when requested. The Los Angeles witnesses were representatives of shippers with a large volume of business. All use other carriers intrastate in addition to the applicant and will continue to do so whether or not the applicant receives a new certificate. Several prefer the applicant because it will leave trailers at the shippers' dock until loaded. Others testified they require a late pickup and the applicant seems

to be the only carrier who will provide this service. Most require hauling of general commodities from Los Angeles to San Diego and the Bay Area. They all use the applicant for interstate shipments and all will try the applicant's new service if this application is granted.

Ten of the protestants presented evidence: California Motor Express, Ltd., and California Motor Transport Co., Ltd.; Willig Freight Lines; Delta Lines, Inc.; Pacific Motor Trucking Company; Valley Express Co. and Valley Motor Lines, Inc.; Associated Freight Lines; Constructors Transport Co.; J. Christenson Company; Merchants Express of California; Oregon-Nevada-California Fast Freight and Southern California Freight Lines. Each submitted oral and documentary evidence. Two shipper witnesses testified that the area the applicant is seeking to serve is adequately covered now and does not need another certificated carrier.

All ten of these protestants maintain they have adequate equipment to handle any foreseeable increase in the public need for service throughout the area applied for by the applicant. All of them state they have equipment operating in this region at much less than full capacity, and several have trucks which are inoperative due to a lack of business. They claim they are losing business as a consequence of too many carriers being certificated in the areas where they operate. An exhibit (No. 27) was introduced in evidence to inform this Commission that 103 carriers were certificated as of January 12, 1961 in all or some part of the area the applicant has applied to serve. The ten protestants state they are opposing this application because another certificated carrier is not needed in any part of the area for which authority is sought

herein and because the applicant can serve all of its customers adequately under the operating authorities it now holds. The protestants do not oppose the issuance of an in lieu certificate to the applicant which merely combines and restates the applicant's present certificates in a single document.

Findings and Conclusions

After full consideration of the record in this proceeding, the Commission finds and concludes that public convenience and necessity require that applicant be granted a new highway common carrier certificate restating its present operative rights and adding thereto the authority to transport general commodities between San Francisco and Sacramento and between Sacramento and the Los Angeles Basin Area including all intermediate points and places in the Los Angeles Basin Area, as hereinafter specified. The Commission further finds and concludes that public convenience and necessity fail to establish that applicant's service is required to the other points requested by this application. The order which follows, therefore, will grant part and deny part of the relief requested herein.

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

An application having been filed, a public hearing having been held and based on the evidence therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity be and it is granted to Pacific Intermountain Express Co., 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 and C attached hereto and hereby made a part hereof.

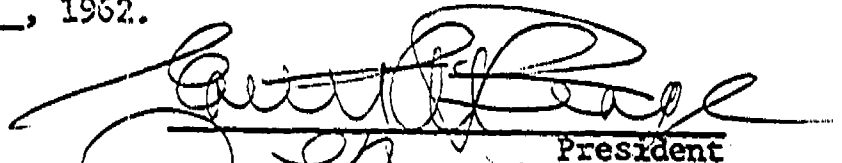
2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (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.

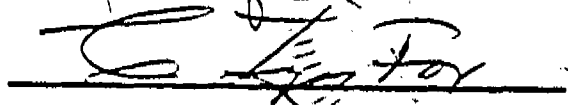
3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Pacific Intermountain Express Co., and presently possessed by it, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

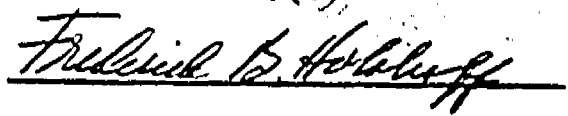
4. Except as herein authorized, the application is denied.  
The effective date of this order shall be twenty days  
after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup>  
day of MARCH, 1962.

  
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President

  
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Commissioners

Pacific Intermountain Express Co., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

1. Between all points and places in the Los Angeles Basin Area as described in Appendix B attached hereto.
2. From Los Angeles Basin Area, on the one hand, to Sacramento and all intermediate points on and within five miles laterally of U. S. Highway 99, on the other hand.
3. From Sacramento, on the one hand, to Los Angeles Basin Area and all intermediate points on and within five miles laterally of U. S. Highway 99, on the other hand.
4. Between the Los Angeles Territory as described in Appendix C attached hereto, on the one hand, and San Francisco, South San Francisco, Oakland, Alameda, San Leandro, Piedmont, Emeryville, Berkeley, Albany, El Cerrito, Richmond and San Pablo, on the other hand.
5. Between San Francisco, on the one hand, and Sacramento, on the other hand.
6. Between Los Angeles, on the one hand, and San Diego, on the other hand.

The authority set forth in paragraphs 4, 5 and 6 above does not include the right to render service to, from or between intermediate points.

Through routes and rates may be established between any and all points specified in paragraphs 1 through 6 above.

Issued by California Public Utilities Commission.

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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.

End of Appendix A

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APPENDIX B TO DECISION NO. 63396

LOS ANGELES BASIN AREA includes that area embraced by the following boundary: Beginning at the intersection of State Highway No. 27 and U. S. Highway No. 101, alternate; northerly on State Highway No. 27 to U. S. Highway No. 101; westerly on U. S. Highway No. 101 to a point where the city limits of the City of Los Angeles is intersected thereby; northerly and easterly along said city limits of Los Angeles to a point from which an imaginary line drawn easterly intersects State Highway No. 7; easterly from such point along such imaginary line to State Highway No. 7; southerly on State Highway No. 7 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; thence 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 and including the City of Redlands; westerly along U. S. Highway No. 99 to U. S. Highway No. 395; southerly along U. S. Highway No. 395 to Alessandro; westerly along unnamed county road to Arlington; southwestly along State Highway No. 18 to U. S. Highway No. 91; westerly along U. S. Highway No. 91 to State Highway No. 55; southerly along State Highway No. 55 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.

Included within the territory immediately above described are all places within the corporate limits of any city which is bisected by the State and U. S. Highways and county roads constituting the boundary of such territory between Yucaipa and Newport Beach.

APPENDIX C TO DECISION NO. 63396

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 66 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.