

ORIGINAL

Decision No. 63511

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MONSON TRUCK CO., a corporation, for)
the extension of its certificate of)
public convenience and necessity as)
a highway common carrier of property.)

Application No. 43503
Filed June 13, 1961

Ivan McWhinney, for Monson Truck Co.,
applicant.

Arthur H. Glanz, for California Motor
Express, Ltd., Merchants Express of
California, Oregon Nevada Fast Freight,
Inc., Southern California Freight Lines,
Shippers Express Company, Sterling
Transit Company, and Valley Motor Lines,
Inc., interested parties.

M. A. Callaway, for United Expressways,
protestant.

E. J. Lenghofer, for San Diego Chamber of
Commerce, intervenor in support of
application.

O P I N I O N

This application was heard before Examiner C. S. Abernathy at San Diego on September 21 and 22, 1961, and at Los Angeles on September 28, 1961. It was taken under submission on October 26, 1961, upon the filing of an amendment thereto.

Copies of the application and notice of the hearing were served in accordance with the Commission's procedural rules. The San Diego Chamber of Commerce participated in the hearing as an intervenor in support of the application. United Expressways, Inc., a highway common carrier, appeared as a protestant. Other

carriers also appeared as protestants, but modified their positions to those of interested parties during the course of the hearing.

Applicant, Monson Truck Co., operates as a highway common carrier of specified commodities between the Cities of Los Angeles and Fontana, on the one hand, and a defined area in and about the City of San Diego, on the other hand. Said operations are conducted under authority of a certificate of public convenience and necessity granted to Monson by Decision No. 58631 dated June 16, 1959. Applicant is also engaged in the transportation of property as a highway permit carrier pursuant to permits issued by this Commission.

By this application Monson seeks enlargement of its highway common carrier operating authority to the end that it may pick up or deliver shipments in areas which are more extensive than those which it may now serve. More specifically, applicant proposes that its pickup and delivery area in and about Los Angeles be extended to include points as far eastward as Yucaipa, March Air Force Base, Corona and Newport Beach, and that its pickup and delivery area in and about San Diego be extended as far northward as Oceanside, Vista and Escondido.

Monson also asks that it be authorized:

- a. To provide transportation service to points along the highways between the Los Angeles and San Diego areas and to points within ten miles of said highways; and

- b. To transport commodities which are in addition to those which it may now haul.¹

In addition, it asks that a limitation be placed on its operating authority restricting its service to "shipments which are picked up, transported and delivered in the same flat bed, low bed or pull-dolly motor vehicle equipment."

As justification for enlargement of its operating authority as sought, Monson alleges that its patrons have requested that it extend its operations, both as to points served and commodities carried. It states that said patrons regularly ship between the additional points involved, and that they also regularly ship or receive the additional commodities which it proposes to transport. It asserts that the enlargement of its authority would enable it to provide its patrons with a more complete transportation service, and would thereby enable them to effect economies in their own operations through consolidation of shipping procedures and consolidation of shipments.

The additional services would be provided on a daily basis in conjunction with applicant's present highway common carrier services. It is contended that applicant's present facilities are sufficient to satisfy the requirements of the additional services and that applicant possesses the experience, equipment and financial ability to render the additional services.

¹ The commodities which applicant may transport as a highway common carrier are listed in Appendix "A" hereof, and the additional commodities which applicant seeks to transport are listed in Appendix "B".

The rates which applicant would assess would be at the level of those that apply as minimum in accordance with the Commission's minimum rate orders. In this connection applicant points out that portions of its routes would be more circuitous than those over which charges under the minimum rates are computed, and that, as a consequence, its charges at the minimum level would be less for some long hauls than for shorter hauls over the same route in the same direction. It asks that it be relieved from the prohibitions of Article XII, Section 21, of the State Constitution and of Section 460 of the Public Utilities Code to the extent necessary to maintain its rates and charges at the level of the minimum rates.²

Evidence in support of applicant's proposals in this matter was submitted by applicant's president and by several of its patrons. In general, the president outlined the circumstances that prompted his company to seek extensions in its services. His testimony in this respect was mainly along the same lines as the above-mentioned reasons which applicant advanced as justification for enlargement of its operating authority as sought. The president also described and discussed the nature and scope of his company's services. He said that his company is primarily a carrier of large and heavy articles that cannot be readily transported by highway carriers generally. Such articles include, for example, reinforced, pre-stressed beams of concrete; steel girders and heavy machinery. He said that the vehicles which his company

²Said minimum rates, and the related rules and regulations, are those which are set forth in the Commission's Minimum Rate Tariff No. 2.

uses for this transportation are flat bed, low bed, and pull-dolly vehicles in order that necessary cranes or other overhead lifting devices may be readily employed in the loading and unloading operations.

Applicant's president stressed that there is no intention in the proposals to alter the essential character of his company's present services. He indicated that the proposals contemplate the transportation of property of the same general type as that now being handled or the transportation of other commodities that move as adjuncts or accessories to the shipments that comprise the principal portion of applicant's traffic. A purpose of the service limitation which applicant seeks, i.e., a limitation of service "to shipments which are picked up, transported and delivered in the same flat bed, low bed, or pull-dolly motor vehicle equipment", is to insure a continuity of the character of the present services.

Included among those who presented evidence in support of the proposals herein were representatives of several metals companies, a pipe company, a lumber company, a machinery company and a manufacturer of pre-stressed concrete items. These witnesses testified in substance that their respective companies ship materials between the Los Angeles and San Diego areas and intermediate points; that such materials consist partly of the articles that applicant may transport under its present operating authority and partly of other articles; that the shipments are made between points inside and outside of applicant's present service areas; that much of the transportation requires the use of

services such as applicant provides, that they utilize applicant's services where they can do so under applicant's present operating authority; that applicant's services are particularly satisfactory, and that the extension of applicant's operations as proposed would be advantageous to them.

The representative of the San Diego Chamber of Commerce testified that that organization favors the extensions of applicant's operations because such extensions would constitute a step in the development of San Diego industry in general and of a San Diego based carrier in particular. He said that the latter factor is an important consideration for San Diego for the reason that carriers whose main terminals are located in San Diego are more responsive to the area's transportation needs than are carriers whose terminals are located elsewhere. He said that applicant's proposals are favored by the Chamber of Commerce for the further reason that they would result in additional common carrier service over U. S. Highway No. 395, a route into San Diego which the Chamber considers to be important to San Diego's development.

Protestant did not offer any evidence.

Discussion, Findings and Conclusions

It is evident from the record herein that the service which applicant provides is of a specialized type that has been developed to meet a need for highway common carrier service between Los Angeles and the San Diego areas for the transportation of specified articles--articles which, because of their size, weight or form of shipment, must be loaded onto, and unloaded from, a carrier's vehicles by mechanical means. It appears that applicant's experience in providing such transportation since 1959,

pursuant to Decision No. 58631, has shown that there is also a need for such service for the movement of certain other articles that have similar transportation characteristics and of articles that move in conjunction therewith. In the circumstances applicant's highway common carrier authority should be enlarged to permit the transportation of these additional articles, such articles being those which are listed in Appendix "B" hereof.

It appears furthermore that with the extension of applicant's operating authority to permit the transportation of additional articles, there should also be certain additions in applicant's authorized service areas. The record is clear that applicant's present service areas are not sufficiently extensive to meet the normal needs of applicant's patrons. However, the evidence does not establish that the extensions which should be made in applicant's service areas should be as great as those sought. The extended area in and about Los Angeles which may be authorized on this record is that which is commonly known as the Los Angeles Territory and which includes that area in and about Los Angeles from about Santa Monica and San Fernando on the west to and including Monrovia and Long Beach on the east. The record also justifies the extension of service as sought to intermediate points along and on each side of the highways between the Los Angeles and San Diego areas. It does not justify the extension of the present San Diego pickup and delivery area northward to Oceanside, Vista and Escondido. To this extent the sought extensions in service areas should be denied.

The authority which applicant seeks to depart from the long- and short-haul prohibitions of Article XII, Section 21, of the State Constitution and of Section 460 of the Public Utilities Code should be granted, inasmuch as it appears that such authority is necessary if applicant is to maintain its rates and charges on a basis that is competitive with those of other carriers.

The authority to be granted should contain the restriction which applicant seeks to have imposed on its services to limit them to shipments which are picked up, transported and delivered in the same flat bed, low bed or pull-dolly motor vehicle equipment. Such restriction would enable applicant to provide the service it proposes and for which the need has been established.

Upon consideration of the evidence the Commission finds and concludes that:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the additional services (those in addition to the services heretofore authorized by Decision No. 58631) which are authorized by the following Order.
2. Public convenience and necessity require that said additional services be authorized.

³In the description of said additional services in the order which follows, the services are described on a combined basis with those previously authorized by Decision No. 58631. For purposes of clarity of definition the certificate of public convenience and necessity hereinafter granted incorporates the previous authority, and supersedes the certificate granted by Decision No. 58631.

3. In the establishment by applicant of rates, rules and regulations to govern the additional services hereinafter authorized, departures from the long- and short-haul prohibitions of Article XII, Section 21, of the State Constitution and of Section 460 of the Public Utilities Code are justified to the extent that said departures are necessary for applicant to comply with the following Order.

Monson Truck Co. 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 hearing having been held, and based upon the authority therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is granted to Monson Truck 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 "C", "D", and "E" attached hereto and hereby made a part hereof.

2. That the certificate of public convenience and necessity which is granted by paragraph 1 of this order supersedes the certificate of public convenience and necessity granted to Monson Truck Co. by Decision No. 58631, dated June 16, 1959, in Application No. 36023, which certificate is hereby revoked, said revocation to become effective concurrently with the effective date of tariff filings required by paragraph 3(b) hereof.

3. 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, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs satisfactory to the Commission, which tariff filings shall be made effective concurrently with the establishment of the service and on not less than thirty days' notice to the Commission and the public. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 30.

4. That, in the establishment of rates, rules and regulations for services which are authorized by this order and which are in addition to those heretofore authorized by Decision No. 58631, Monson Truck Co. shall establish rates, rules and regulations conforming to those that apply to said services and are in effect under minimum rate orders of the Commission at the time said rates, rules and regulations are established.

5. That, in establishing and maintaining the rates, rules and regulations prescribed by paragraph 4 hereof, Monson Truck Co. be and it is authorized to depart from the long- and short-haul provisions of Article XII, Section 21, of the Constitution of the State of California, and of Section No. 460 of the Public Utilities Code to the extent necessary to comply with this order. In publishing rates under the authority conferred in this ordering paragraph, Monson Truck Co. shall make reference in its schedules to this order.

6. That, except as is otherwise provided by this order, Application No. 43503 be and it hereby is denied.

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

Dated at San Francisco, California, this 3rd day of APRIL, 1962.

[Signature]
President
[Signature]
[Signature]
Commissioners

Commissioner Peter F. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX "A" TO DECISION NO. 63511

Authorized Commodities (See Note)

- (a) ALUMINUM, Items Nos. 5370 through 5870.
- (b) CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, Items Nos. 29220 through 30440.
- (c) IRON OR STEEL, Items Nos. 53610 through 55290.
- (d) LEAD, Items Nos. 56140 through 56430.
- (e) MACHINERY OR MACHINES, OR PARTS NAMED, Items Nos. 58470 through 67391.
- (f) PETROLEUM OR PETROLEUM PRODUCTS, INCLUDING COMPOUNDED OILS OR GREASES HAVING A PETROLEUM BASE, in packages, Items Nos. 77230 through 77340.
- (g) ROOFING OR SIDING, OR ROOFING OR SIDING MATERIALS, Items Nos. 83530 through 83770.
- (h) TANKS, Items Nos. 88710 through 89300.
- (i) MISCELLANEOUS COMMODITIES, VIZ:
 - Pontoons, airplane.
 - Pontoons, steel.

Note: For more complete descriptions of commodities (other than of miscellaneous commodities), see those listed under corresponding headings and item numbers in Western Classification No. 76 of J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix "A"

APPENDIX "B" TO DECISION NO. 63511

Additional Commodities (See Note)

- (a) ASPHALT, PITCH OR TAR, Items Nos. 6780 through 6920.
- (b) BRASS, BRONZE, OR COPPER, Items Nos. 14700 through 15090.
- (c) BRICKS, BLOCKS, SLABS, TILE OR RELATED ARTICLES, Items Nos. 15170 through 15535.
- (d) BUILDING OR PAVING MATERIALS, MISCELLANEOUS, Items Nos. 15860 through 16870.
- (e) BUILDING METAL WORK, INCLUDING ROOF TRIMMINGS OR GUTTERING OR VENTILATORS, Items Nos. 16885 through 18260.
- (f) BUILDINGS OR HOUSES, FABRICATED OR PORTABLE, Items Nos. 18835 through 19030.
- (g) HARDWARE, Items Nos. 48640 through 51180.
- (h) LUMBER, VENEER OR FOREST PRODUCTS, Items Nos. 57580 through 58450.
- (i) METALS OR ALLOYS NOT NAMED IN OTHER MORE SPECIFIC GROUP, Items Nos. 68110 through 68790.
- (j) NICKEL, Items Nos. 70155 through 70310.
- (k) NICKEL-COPPER, Items Nos. 70325 through 70480.
- (l) NICKEL-IRON SCRAP, Item No. 70495.
- (m) NICKEL-IRON-CHROMIUM ALLOY, Items Nos. 70500 through 70620.
- (n) NICKEL-SILVER, Items Nos. 70635 through 70750.
- (o) WASTE MATERIALS, Items Nos. 95125 through 96121.
- (p) BOATS OR PARTS NAMED, Items Nos. 11440 through 11930.

Note: For more complete descriptions of commodities, see those listed under corresponding headings and item numbers as set forth in Western Classification No. 76 of J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix "B"

Monson Truck Co., a corporation, by the certificate of public convenience and necessity granted by the Decision noted in the margin is authorized to transport (a) the commodities which are listed in Section I below (b) between the points and territories which are listed in Section II below (c) via the routes which are listed in Section III below, subject to the restriction which is listed in Section IV below.

Section I - Authorized Commodities

(Note - For a more complete description of the commodities listed herein (with the exception of miscellaneous commodities), see the commodity descriptions which are set forth under the corresponding headings and item numbers in Western Classification No. 76 of J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.)

- (a) ALUMINUM, Items Nos. 5370 through 5870.
- (b) ASPHALT, PITCH OR TAR, Items Nos. 6780 through 6920.
- (c) BOATS OR PARTS NAMED, Items Nos. 11440 through 11930.
- (d) BRASS, BRONZE, OR COPPER, Items Nos. 14700 through 15090.
- (e) BRICKS, BLOCKS, SLABS, TILE OR RELATED ARTICLES, Items Nos. 15170 through 15535.
- (f) BUILDING OR PAVING MATERIALS, MISCELLANEOUS, Items Nos. 15860 through 16870.

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Section I - Authorized Commodities (Continued)

- (g) BUILDING METAL WORK, INCLUDING ROOF TRIMMINGS OR GUTTERING OR VENTILATORS, Items Nos. 16885 through 18260.
- (h) BUILDINGS OR HOUSES, FABRICATED OR PORTABLE, Items Nos. 18835 through 19030.
- (i) CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, Items Nos. 29220 through 30440.
- (j) HARDWARE, Items Nos. 48640 through 51180.
- (k) IRON OR STEEL, Items Nos. 53610 through 55290.
- (l) LEAD, Items Nos. 56140 through 56430.
- (m) LUMBER, VENEER OR FOREST PRODUCTS, Items Nos. 57580 through 58450.
- (n) MACHINERY OR MACHINES, OR PARTS NAMED, Items Nos. 58470 through 67391.
- (o) METALS OR ALLOYS NOT NAMED IN OTHER MORE SPECIFIC GROUP, Items Nos. 68110 through 68790.
- (p) NICKEL, Items Nos. 70155 through 70310.
- (q) NICKEL-COPPER, Items Nos. 70325 through 70480.
- (r) NICKEL-IRON SCRAP, Item No. 70495.
- (s) NICKEL-IRON-CHROMIUM ALLOY, Items Nos. 70500 through 70620.
- (t) NICKEL-SILVER, Items Nos. 70635 through 70750.
- (u) PETROLEUM OR PETROLEUM PRODUCTS, INCLUDING COMPOUNDED OILS OR GREASES HAVING A PETROLEUM BASE, in packages, Items Nos. 77230 through 77340.

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Section I - Authorized Commodities (Concluded)

- (v) ROOFING OR SIDING, OR ROOFING OR SIDING MATERIALS, Items Nos. 83530 through 83770.
- (w) TANKS, Items Nos. 88710 through 89300.
- (x) WASTE MATERIALS, Items Nos. 95125 through 96121.
- (y) MISCELLANEOUS COMMODITIES, VIZ:
Pontoons, airplane.
Pontoons, steel.

Section II - Territories and Points

The transportation which is authorized by the certificate of public convenience and necessity granted by the Decision noted in the margin is that

Between

Points and places in Los Angeles Territory (as described in Appendix "D" of this Decision)

Fontana (also, mills of Kaiser Steel Corporation near Fontana)

And

Points and places in San Diego Territory (as described in Appendix "E" of this Decision)

And also

From Points and Places in

Los Angeles Territory

Fontana (also, mills of Kaiser Steel Corporation near Fontana)

San Diego Territory

Issued by the California Public Utilities Commission.

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Section II - Territories and Points (Concluded)

To Points and Places along or within 10 miles of
either side of the following highways:

- a. That portion of U. S. Highway No. 101, between State Highway No. 55 and the northern boundary of San Diego Territory.
- b. That portion of U. S. Highway No. 101-A between State Highway No. 55 and U. S. Highway No. 101.
- c. That portion of U. S. Highway No. 395 between the southern boundary of March Air Force Base and the northern boundary of San Diego Territory.
- d. That portion of State Highway No. 71 between U. S. Highway No. 91 and U. S. Highway No. 395.

Section III - Authorized Routes

1. Between Los Angeles Territory and San Diego Territory
 - a. U. S. Highway No. 101
 - b. U. S. Highway No. 101-A to its junction with U. S. Highway No. 101; thence via U. S. Highway No. 101.
 - c. U. S. Highway No. 99 to its junction with State Highway No. 71; thence via State Highway No. 71 to its junction with U. S. Highway No. 395; thence via U. S. Highway No. 395.
 - d. U. S. Highway No. 60 to its junction with U. S. Highway No. 395; thence via U. S. Highway No. 395.

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Section III - Authorized Routes (Concluded)

2. Between Fontana (also, mills of Kaiser Steel Corporation near Fontana) and San Diego Territory
 - a. U. S. Highway No. 99 to its junction with U. S. Highway No. 395; thence via U. S. Highway No. 395.*
 - b. U. S. Highway No. 60 to its junction with U. S. Highway No. 395; thence via U. S. Highway No. 395.*

*Includes available routes between Fontana (also Kaiser Steel Corporation's mills) and U. S. Highway Nos. 60 and 99.

Section IV - Restrictions

The transportation which may be provided pursuant to the authority granted by the Decision noted in the margin is limited to the transportation of shipments which are picked up, transported and delivered in the same flat bed, low bed, or pull-dolly motor vehicle equipment.

End of Appendix "C"

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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 Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of 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 Telegraph Road; westerly on Telegraph Road 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 "E" TO DECISION NO. 63511

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 20; 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.