

ORIGINAL

Decision No. 63813

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 SAME DAY DELIVERY SERVICE, a corpo-  
 ration, for authority to amend its  
 certificate of public convenience  
 and necessity for the transportation  
 of general commodities with excep-  
 tions, as a highway common carrier  
 between the Los Angeles Basin  
 territory and the San Diego territory,  
 under the provisions of Sections  
 1053-64 of the California Public  
 Utilities Code.

Application No. 43402  
 (Filed May 12, 1961)

Donald Murchison, for applicant.

Graham, James and Rolph, by Leo Vander Lans and  
Boris Lakusta, for Boulevard Transportation  
 Co.; California Cartage Co.; California Motor  
 Express, Ltd., and California Motor Transport  
 Co., Ltd.; Delta Lines, Inc.; Merchants  
 Express of California; Oregon-Nevada-California  
 Fast Freight and Southern California Freight  
 Lines; Sterling Transit Co., Inc.; and Willig  
 Freight Lines, protestants.

O P I N I O N

This application was heard before Examiner Edward G. Fraser on October 26, and December 28 and 29, 1961, at Los Angeles. The matter was submitted for decision on February 16, 1962, after the presentation of oral argument.

Applicant is now operating under permitted authority, hauling general commodities as a radial highway common carrier and a highway contract carrier. Applicant also operates as a certificated highway common carrier under Decision No. 60610, in Application No. 42134, which authorizes the hauling of general commodities, with the usual exceptions, between all points within the

Los Angeles Basin Territory and the hauling of special commodities (defined as groceries and grocers' supplies, iron and steel and various other miscellaneous commodities, including household laundry drying machines, venetian blind hardware, finished lumber, paste, refrigerators, car seals, gas and electric stoves, strapping tools, vegetable oil and cellulose and paper bags) between Los Angeles, on the one hand, and San Diego, on the other hand.

Applicant is requesting an amended certificate which will authorize the transport of general commodities between all points in the Los Angeles Basin Territory and the San Diego Territory, via U.S. Highways 101 and 395, serving all intermediate points, and all points within a 10-mile lateral of said highways.

The president of applicant testified that he has been in the trucking business since 1938 and with applicant for the last nine years; that he was employed for 16 years by Signal Trucking Co., starting in the traffic department, then payroll, accounting, cost accounting, and operations; that when he left the employ of Signal Trucking Co. he was the Director of Personnel and Safety; that Emil Flescher started applicant's for-hire truck operation in 1946 as an individual with one truck, which Flescher drove himself; that the operation gradually expanded until the corporation was formed and reached its present size; and that Mr. Flescher is still with the corporation as a vice president.

The witness further testified that applicant now operates under its present certificate in the Los Angeles Basin Territory and to San Diego; that it is operating in the San Diego Territory and to intermediate points between the Los Angeles Basin and San Diego under its permits; and that it is seeking an extension of

authority for the following reasons: to enable applicant to give split delivery privileges throughout the area it serves and to eliminate the necessity of keeping duplicate separate records for its permitted and certificated hauling; to satisfy the demands of its shippers who have expanded and installed factories and warehouses in the extended area for which applicant is seeking a certificate; and, finally, to reduce confusion among the shippers for whom applicant hauls special commodities, since many have requested that applicant also carry their general commodity items into the area applied for herein.

The president of applicant further testified that applicant operates exclusively within the area applied for in this application, out of terminals in Los Angeles and San Diego; that the Los Angeles terminal has a fenced yard, a covered storage area and a shop and garage where the trucks are repaired; that the Los Angeles dock is 50 by 100 feet, is completely enclosed, and is protected by a burglar alarm; that the San Diego terminal has a dock where 3 pickup trucks are based for local pickup and delivery; and that applicant employs a total of 40 persons, including office employees, drivers and mechanics. The equipment list (Exhibit 5) shows that in May 1961, applicant owned 19 stake and 10 van trucks, 5 tractors, and 1 stake and 4 van semitrailers; a 1961 Chevrolet 3-ton stake truck and a 1956 Chevrolet van truck have recently been purchased and are not included in the equipment list.

Applicant's balance sheet for December 31, 1960 (Exhibit 3) shows total assets of \$78,019.16, current liabilities of \$29,422.31, and total other liabilities of \$7,910.77. The operating statement for 1960 (Exhibit 4) lists total income of \$468,514.00 and

total operating expenses of \$448,998.00. The net operating profit before taxes totals \$18,516.00; after federal income tax of \$5,855.00, a net profit of \$12,661.00 is shown.

The witness further testified that applicant now provides an overnight service from the Los Angeles Basin Territory to San Diego and intermediate points on Highways 101 and 395; that service from San Diego to the San Diego Territory is also overnight, but applicant hopes to provide same-day service throughout the San Diego area if an extended certificate is awarded; that applicant now operates from Los Angeles south on Highway 101 and returns to Los Angeles on Highway 395; and that an on-call service is provided every day, excepting Saturdays, Sundays and holidays, with weekend and holiday service provided on special request.

Applicant is a party to the Western Motor Tariff Bureau, Inc., Agent, Local Joint and Proportional Freight Tariff No. 17-A, Cal. P.U.C. No. 33, Elmer Ahl, Agent, Series. If this application is granted the present operation and tariff rates are to be extended through the enlarged service area.

Applicant presented 8 shipper witnesses. The testimony of a ninth witness, who was not present, was accepted by the parties on a stipulation that if the witness were called he would testify substantially the same on direct and cross-examination as the other 8 witnesses.

The testimony of these witnesses was to the following effect: they ship toiletries, soaps, shave lotions, insecticides, staples, machines, machine parts, steel strapping and accessories, Schwinn Bicycles and parts, embalming chemicals, mortuary supplies, steel bolting materials, nuts, dust collectors, dust collecting

equipment, dust suppressing equipment, wetting agents, adhesives, food storage chests, chemicals, electronic tubes, auto lamps, signal flashers, radio and T.V. tubes, industrial lamps, semi conductors and seal beam lamps. Three of the witnesses have used applicant's service for 14 years, one for 10 years, two for 3 years, one for 18 months, one for 12 months, and one for 6 months. All favor applicant because they can get a truck to pick up and deliver their goods on schedule. Other carriers have arrived late for scheduled pickups or have failed to deliver on time; sometimes they have promised a pickup when called, but no truck has appeared for one or more days. Three of the witnesses will use the split delivery privileges if applicant is certificated in the new area and all will engage applicant if the extended authority is granted. All ship to the San Diego Territory, including intermediate points, daily, or almost daily. Their shipments range in weight from 15 pounds to 6,000 pounds; monthly totals from the Los Angeles Basin to the San Diego Territory, with intermediate points included, average from 10,000 pounds, or less, to 75,000 pounds.

Four of the protestants (Southern California Freight Lines, California Cartage Company, Sterling Transit Company, Incorporated, and Boulevard Transportation Company) presented oral and documentary evidence.

All four 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 applicant. All of them claim that they have equipment operating in this region at much less than full capacity; that they are losing business and along with other carriers will be forced to petition this Commission for a substantial increase in rates if many more carriers are

certificated in the area where they operate; that another certificated carrier is not needed in any part of the area for which authority is sought herein; and that applicant can serve all of its customers adequately under the operating authorities it now holds.

Findings and Conclusions

We hereby find that Same Day Delivery Service, a corporation, is a capable and financially stable common carrier with the necessary financial resources, experience, equipment and personnel to perform the extension of service authorized in the following order. We find that applicant is now serving the area involved as a permitted carrier and also as a certificated carrier to the extent of hauling special commodities between terminals in Los Angeles and San Diego. We find that a substantial number of the shippers served by applicant supply grocery stores, drugstores, hardware stores and mortuaries, which are found in most communities between Los Angeles and San Diego and which frequently require daily truck delivery service. We find that the shippers who testified prefer applicant's service and will use applicant to haul their goods in all areas where service is provided.

We find that public convenience and necessity require that applicant's general commodity authority be extended to provide service between all points in the Los Angeles Basin Territory and the San Diego Territory, via U.S. Highways 101 and 395, serving all intermediate points and all points within a 10-mile lateral of said highways. We conclude that the application should be granted as provided in the following order.

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 is granted to Same Day Delivery Service, 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 and C attached hereto and hereby made a part hereof.

2. Appendix A of Decision No. 60610 is amended by incorporating therein First Revised Page 1, attached hereto, in revision of Original Page 1. Decision No. 60610 is further amended by adding thereto Appendix C, attached hereto.

3. In providing service pursuant to the authority 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.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) 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. 80.

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

Dated at San Francisco, California, this 12th day of JUNE, 1962.

*Ernest A. DeLoach*  
 President

*J. Edgar Hoover*

*S. L. ...*

*Fredrick B. ...*

Commissioners



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Appendix A

SAME DAY DELIVERY SERVICE  
(a corporation)

First Revised Page 1  
Cancels  
Original Page 1

Same Day Delivery Service, 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 Territory as described in Appendix B attached hereto.
2. Between all points and places in the San Diego Territory as described in Appendix C attached hereto.
3. Between said Los Angeles Basin Territory and said San Diego Territory, on the one hand, and all intermediate points on or within ten miles laterally of U.S. Highways 101 and 395, on the other hand.

Issued by California Public Utilities Commission.

Decision No. 63813, Application No. 43402.

APPENDIX C TO DECISION NO. 63813

SAN DIEGO TERRITORY consists of the area bounded as follows: Beginning at the junction of Torrey Pines Road and U.S. Highway 101 (4 miles north of La Jolla); thence easterly to Miramar; thence southeasterly to Lakeside, located on State Highway 67; thence southerly to Bostonia; thence southeasterly to Jamul, located on State Highway 94; thence due south to the International Boundary; thence westerly along the International Boundary to the Pacific Ocean; thence along the Pacific coast to a point due west of the point of beginning; thence due east to the point of beginning.