

ORIGINALDecision No. 63984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MERCHANTS EXPRESS OF CALIFORNIA,
 a corporation, for an in-lieu
 certificate of public convenience
 and necessity.

Application No. 44177

O P I N I O N

By the amended application filed herein on April 23, 1962 and original application filed February 13, 1962, Merchants Express of California, a California corporation, requests an in-lieu certificate of public convenience and necessity as a highway common carrier, as defined in Section 213 of the Public Utilities Code.

There were no protests to the application as amended. By letter dated May 15, 1962 the applicant requested that a change be made in the amended application. A formal amendment was not presented as the proposed change is minor and limits rather than extends applicant's requested in-lieu certificate.

It is alleged that:

1. Prior to August 15, 1957, Merchants Express of California and Merchants Express Corporation were two distinct and separate corporations. Pursuant to Decision No. 54598 dated February 25, 1957, in Application No. 38623, this Commission authorized the merging of Merchants Express Corporation into Merchants Express of California, the latter to be the surviving corporation. Said surviving corporation (the applicant herein) is operating as a highway common carrier generally between Crescent City on the north, and the California-Mexico border on the south.

2. This Commission, in Decision No. 61730 dated March 28, 1961 in Application No. 42945, stated:

"4. That, within six months after the effective date of this order, Merchants Express of California shall file an application with this Commission requesting a restatement of all of its operating rights."

(By order dated October 24, 1961 the time for compliance with this paragraph was extended to February 15, 1962).

3. Public convenience and necessity require the issuance of the herein requested in-lieu certificate of public convenience and necessity. Some of the certificates now held by applicant were granted to other companies and purchased by either Merchants Express of California or Merchants Express Corporation. Some of the certificates were originally granted to one or the other of said companies. Said rights held by the surviving corporation (applicant herein) are extensive and complicated. It is applicant's purpose to have an in-lieu certificate issued in order that one document may represent all the various rights of applicant (except as to petroleum products).

4. The in-lieu certificate would state the commodities authorized to be transported, the territory authorized to be served, and the restrictions, where applicable, in a concise and complete manner in one certificate. This would be of great benefit to the public, to the Commission, and to the operating personnel of applicant, in that it would allow the operating authority of applicant to be determined quickly and effectively, without undue delay, effort and confusion.

Findings and Conclusions

1. Public hearing is not necessary.
2. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

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

Amended application having been filed and the Commission having considered all the allegations thereof,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Merchants Express of California, a corporation, authorizing the transportation of property as a highway common carrier as defined by Section 213 of the Public Utilities Code, between the points and over the routes as set forth in Appendices A and B attached hereto and made a part hereof.
2. In providing service pursuant to the certificate of public convenience and necessity 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.

3. The certificate of public convenience and necessity granted in Paragraph 1 of this order supersedes all existing highway common carrier certificates heretofore granted to or acquired by Merchants Express of California, except those certificates authorizing the transportation of petroleum or petroleum products in tank trucks or tank trailers; such

superseded certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by Paragraph 2 of this order.

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

Dated at San Francisco, California, this 24th day of July, 1962.

George A. Grover
President
Paul J. Mitchell
S. J. Taylor
Arthur W. King
Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A MERCHANTS EXPRESS OF CALIFORNIA Original Page 1
(a corporation)

Merchants Express of California, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport property as follows:

GENERAL COMMODITIES, except:

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. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
3. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
4. 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.
5. 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, bus chassis.
6. Articles of extraordinary value as set forth in Rule 3 of Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
7. Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.

Issued by California Public Utilities Commission.

Decision No. 63984, Application No. 44177.

Between all points and places on the highways or within the area hereinafter enumerated, including points and places within twenty miles of the enumerated highways and points and places within twenty miles of the boundary of the described area except where different mileage is specifically noted:

1. An area bounded by a line commencing at the Pacific Ocean west of Westport; thence, east along an imaginary line to Pulga; thence, southeast along an imaginary line to Nevada City; thence, southerly along State Highway 49 to Mariposa; thence, southwesterly along State Highway 140 to Merced; thence, southerly along U. S. Highway 99 to the northern boundary of the Los Angeles Basin Territory (described in Appendix B attached hereto); thence, easterly and southerly along the Los Angeles Basin Territory boundary to Temecula; thence, southerly along U. S. Highway 395 to San Diego; thence, southerly along U. S. Highway 101 to San Ysidro; thence, west to the Pacific Ocean; thence, northerly along the coast line of the Pacific Ocean to the point of beginning.
(See Exceptions 1 and 2.)
2. U. S. Highways 99, 99E and 99W between the California-Oregon border and the northern boundary of the area described in No. 1 above.
3. U. S. Highway 101 between Crescent City and the northern boundary of the area described in No. 1 above. Off-route service limited to points and places within 10 miles of this route. (See Exception 3.)
4. State Highway 108 between Sonora and Strawberry.
5. State Highway 120 between junction State Highway 49 (near Jacksonville) and Yosemite National Park.

Issued by California Public Utilities Commission.

Decision No. 63981, Application No. 44177.

EXCEPTION 1: Merchants Express of California is not authorized hereunder to serve from, to or between points and places located over and along State Highway 140 or within five miles laterally thereof between Yosemite and a point one mile east of Merced, except points and places within 25 miles of U. S. Highway 99.

EXCEPTION 2: Merchants Express of California is not authorized hereunder to serve points and places more than 20 miles west of U. S. Highway 101 between Santa Rosa and Longvale, both inclusive.

EXCEPTION 3: Merchants Express of California is not authorized hereunder to serve the following:

- (1) Korbel and Blue Lake and all other points and places on U. S. Highway 299 within 10 miles of U. S. Highway 101.
- (2) Hydesville and all points and places located on the county road from Fortuna to Hydesville via Rohnerville, all points and places on State Highway 36 east of Hydesville within 10 miles of U. S. Highway 101, and all points and places on county roads from junction State Highway 36 and county road near Bridgeville to Fort Seward, Alderpoint and Zenia within 10 miles of U. S. Highway 101.

Merchants Express of California may use any street, road, highway, ferry or toll bridge necessary or convenient in performing the service herein authorized, and may establish through routes and rates between any and all points and places authorized to be served.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 63984, Application No. 44177.

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