

**ORIGINAL**Decision No. 65513

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 CALIFORNIA CARTAGE EXPRESS, a )  
 California corporation, for a cer- )  
 tificate of public convenience and )  
 necessity authorizing the extension )  
 of its express corporation operations )  
 pursuant to the provisions of Section )  
 1010 of the Public Utilities Code of )  
 the State of California. )

Application No. 45131  
 (Filed February 13, 1963)

Arthur H. Glanz, for applicant.

O P I N I O N

California Cartage Express, a corporation (hereinafter called Cartage Express), requests authority to enlarge its present prescriptive "express corporation" operations between Los Angeles and San Diego to the extent that its operating rights will be co-extensive with the highway common carrier authority of its parent company, California Cartage Company, Inc. (hereinafter called Cartage Company). The latter company transports general commodities, with certain exceptions, between the Los Angeles area and the San Francisco Territory, serving various intermediate and off-route points; between the San Diego Territory and San Luis Obispo, serving all intermediate points on U. S. Highways 101 and 101-A, including all points located within ten miles laterally of said highways; and within the territory of the Greater Los Angeles area, and the San Francisco Territory.<sup>1/</sup>

1/ Decisions Nos. 61050 and 64612.

The scope of applicant's proposed service will be no greater than that of its parent company and will have a common restriction against local service between points within the Greater San Diego Territory.

A public hearing was held in Los Angeles on April 10, 1963, before Examiner Chiesa, at which time evidence, oral and documentary, was adduced and the matter was duly submitted for decision.

The evidence shows that Cartage Company and Cartage Express have a common ownership and management; that the former is one of the principal highway common carriers in the Los Angeles Basin area and between said basin area and the San Francisco and San Diego Territories, all as more specifically set forth in said Decisions Nos. 61050 and 64612; that it maintains terminals in Los Angeles, San Francisco and San Diego, operates 220 pieces of equipment and has 200 employees; that for the year ending December 31, 1962, its gross freight revenue was \$3,446,840 and its net operating income was \$96,667; and that the gross revenue and operating income of Cartage Express for said year were \$166,759 and \$21,914, respectively.

The vice president and general manager of applicant and its parent company testified that shipper customers have requested and expressed a need for the proposed express service; that many customers have moved out of the area now served by Cartage Express, resulting in a loss of some of the express business as carload shipments have decreased from two to three carloads to one carload or less; that a common service area

would eliminate confusion on the part of their shippers; that "dead mileage" could be eliminated by the use of rail "piggy-back"; that rail service could be used to balance the northbound and southbound traffic with resultant improvement in the operating ratio; and that present shippers would not be required to use the services of multiple express carriers when they have express shipments to points served by Cartage Company but not served by Cartage Express.

Applicant proposes to charge rates and will adopt rules consistent with the rate orders of this Commission, which rates and rules will be in harmony with the rates and charges maintained by the parent company and other common carriers.

Although notices were mailed to competing "express corporations" there were no appearances in opposition to the application nor as interested parties.

The Commission finds that:

1. Applicant has been operating as an "express corporation" as that term is defined in Section 219 of the Public Utilities Code, between Los Angeles and San Diego pursuant to a prescriptive or "grandfather" right.

2. Public convenience and necessity require that applicant extend its operations as an "express corporation" to or from any point or points in this State as hereinafter set forth.

Based upon the foregoing findings of fact, the Commission concludes that a certificate of public convenience and necessity be issued to California Cartage Express, a corporation, as provided in the order herein and that, for the purpose of clarification, said certificate shall be in lieu of any and all operating authority heretofore granted to or acquired by applicant.

California Cartage Express 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to California Cartage Express, a corporation, authorizing the transportation of property as an "express corporation", as defined by Section 219 of the Public Utilities Code, between the points and over the routes as set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following 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. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the express corporation operating authority authorized 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 day's 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-A.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing operating authority for the transportation of general commodities heretofore granted to or acquired by California Cartage Express, and presently possessed by it, which authority is hereby canceled and revoked, said revocation to become

effective concurrently with the effective date of the tariff filings required by paragraph 2 b hereof.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of JUNE 4, 1963.

[Signature] President  
[Signature] Acting President

Fredrick B. Hildehoff

[Signature]

[Signature]  
Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

California Cartage Express, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities, with the exceptions hereinafter noted, between the points and over the routes as follows:

1. Between the Greater Los Angeles Area and the San Francisco Territory, serving all intermediate points over U. S. Highway 99 and U. S. Highway 50, including Manteca and Stockton, and including all points located within 10 miles laterally of U. S. Highways 99 and 50 except Saugus and Newhall.
2. Between the San Diego Territory and San Luis Obispo, inclusive, serving all intermediate points over U. S. Highway 101 and U. S. Highway 101-A including all points located within 10 miles laterally of U. S. Highways Nos. 101 and 101-A.
3. Within the territories hereinafter described and to serve off-route points within 10 miles laterally of named highways except the points of Saugus and Newhall which applicant may not serve; it is also authorized to operate over all convenient streets and highways.

The three territories heretofore referred to are described as follows:

Greater Los Angeles Area

Beginning at the intersection of Sunset Boulevard and U. S. Highway 101, alternate; thence northeasterly on Sunset Boulevard to State Highway 7; northerly along State Highway 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; 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

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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 99; northwesterly along U. S. Highway 99 to and including the City of Redlands; westerly along U. S. Highway 99 to U. S. Highway 395; southerly along U. S. Highway 395 to Alessandro; westerly along unnamed county road to Arlington; southwestly along State Highway 13 to U. S. Highway 91; westerly along U. S. Highway 91 to State Highway 55; southerly along State Highway 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 101-A; thence northerly along an imaginary line to point of beginning.

#### San Diego Territory

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; 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.

#### San Francisco Territory

Includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to

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Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capital Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

The authority herein granted does not include the right to render local service between points in the Greater San Diego Territory.

The commodity restrictions are as follows:

Applicant shall not transport livestock, uncrated used household goods and office furniture, commodities requiring special equipment, commodities in bulk, articles of extraordinary value, dangerous explosives, and commodities injurious or contaminating to other lading.

End of Appendix A

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