

Decision No. 66410

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
THEATRE TRANSIT CO., a corpo- )  
ration, for a certificate of public )  
convenience and necessity to operate )  
as a highway common carrier. )

Application No. 45655  
(Filed August 8, 1963)

Berol, Loughran and Geernaert, by Frank Loughran,  
for applicant.

O P I N I O N

Theatre Transit Co., a corporation, is operating under permitted authority as a highway contract carrier, hauling for fourteen shippers who are engaged in the business of distributing motion picture film, advertising matter, and various motion picture theater supplies to motion picture theater outlets.

Applicant now requests a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code, authorizing applicant to perform transportation of motion picture film, theater accessories, fixtures and supplies, including advertising material and snack shop items, from, to and between all points located generally within a zone limited by Willits and Calistoga on the north, Auburn on the northeast, Sacramento, Stockton, Fresno, Visalia, Hanford, Porterville, and Bakersfield on the east, Los Banos and Gilroy on the south, and Salinas, Monterey, Santa Cruz, San Jose, Palo Alto, San Francisco, San Rafael and Petaluma on the west; and from all points in the described area to all points in Los Angeles County. The applicant further requests that its certificate be restricted to provide that

"the consignor or consignee of a shipment must be a motion picture theater or a motion picture film distributor."

A public hearing was held before Examiner Fraser on October 2, 1963, at San Francisco. No one appeared to protest the grant of the authority requested.

The president of the applicant corporation testified that the applicant operates ten trucks out of a single terminal in San Francisco which is completely enclosed and can accommodate seven trucks at the same time. He testified the terminal and all trucks used by the applicant are leased. The income statement placed in evidence (Exhibit No. 1) by the applicant shows an operating revenue of \$44,251.94 and a net loss of \$13,736.60 for the period January 1 to March 31, 1963; also, an operating revenue of \$114,637.88, with a net income of \$12,489.99 for the period April 1 to September 27, 1963. The witness testified that the applicant's loss during the first three months of 1963 was due to the expense of first going into business.

The witness further testified as follows: the hauling of motion picture film, advertising, and allied components to theaters is a specialized operation in which trucks leave their terminal at 10:30 or 11:00 p.m. and arrive at their first movie houses at 1:00 a.m. in the morning. The drivers open the theaters with their own keys, leave the movie film, advertising matter and snack bar items for the next show inside the theater and pick up anything left for them to carry back to San Francisco or to another theater on the route. The applicant handles this operation and also transfers the film and other cargo from the distributors in San Francisco to the applicant's terminal, where it is stored until it is moved (usually the same night) to a movie house; the returning trucks come in early in the morning and the film they carry is

returned to the distributor on the same day so it can be checked and sent to another movie house during the late evening. General commodity carriers cannot serve these shippers because the latter's hauling is done at night and must serve theaters in many small towns well off the main routes. A single certificated carrier was serving the movie distributors and movie theaters in the northern part of the State but this carrier went out of business on October 1, 1963 without notice and no one is now serving the film industry. Applicant plans to serve the area with five routes; each truck will leave San Francisco about 10:30 p.m. on Monday through Friday, inclusive, and return at 7:30 a.m. the following morning. A sixth route will proceed from the film distributors in San Francisco to distributors in Los Angeles and provide a rapid method of transferring films between northern and southern California. The Los Angeles service will be started on an "on-call" basis and expanded to five days a week as more frequent service is required. Applicant will charge the rates set forth in Tariff No. 15, California P.U.C. No. 19, C. R. Nickerson, Agent, and Interstate Freight Carriers Conference Tariff No. 1, California P.U.C. No. 1, issued by C. J. Sullivan. Applicant has been asked to provide a regular daily service in the area it serves by more than ninety shippers and more requests are coming in since the other carrier serving the area went out of business.

Fourteen shipper witnesses testified for the applicant as follows: they are motion picture film distributors who supply about 125 northern California movie houses with film, advertising, and snack bar items. The Northern California Theater Owners Association of 285 members is supporting the application. They require the service of a carrier who specializes in the transfer of movie film and the applicant is willing to serve and qualified to

serve in this capacity. The applicant has provided excellent service in the past and has agreed to replace the carrier which ceased operating. The latter hauled films and theater supplies exclusively at first and then became a general commodity carrier. Its service to the theaters and film distributors deteriorated as soon as it expanded into general commodity hauling. Movie distributors require a completely reliable carrier because each theater shows a different movie at each change of program and a failure to pick up or deliver a film usually means that two or more theaters have nothing to show. Distribution points in San Francisco require reliable service to return their films promptly. Several of the witnesses tried general commodity carriers and it was not practical. All of the witnesses will use the applicant if a certificate is granted. The applicant has already started to expand its operation in the area due to no other carrier being available to serve movie film distributors.

Upon consideration of the evidence the Commission finds that:

1. Film distributors and the movie houses receiving their film require the services of a carrier that will pick up and deliver after midnight five days a week. General commodity carriers operating exclusively during the day cannot provide this service.
2. The applicant is willing to provide this service as a certificated highway common carrier and has been providing the required service for a limited number of shippers as a contract carrier.
3. Movie distributors and movie houses in northern California have no certificated highway common carrier service for the

transport of movie film and accessories and they desire that the applicant be certificated to serve this area.

4. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

5. Public convenience and necessity require that the proposed service be authorized.

The Commission concludes from the foregoing findings of fact that authority should be granted to applicant as specified in the order which follows.

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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Theatre Transit 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 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 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 tariffs, in triplicate, in the Commission's office.
- (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-A.

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

Dated at San Francisco, California, this 3rd day of December, 1963.

William W. Brown  
President

George E. Prover  
Commissioners

Fredrick B. Hallock  
Commissioners

Theatre Transit Co., a corporation, is authorized to transport motion picture film, theater accessories, fixtures and supplies, including advertising material and snack-shop items as follows:

1. From, to and between all points including all named points located on:
  - a. U. S. Highway 101, 101 Alternate and 101 Bypass between Willits and Salinas.
  - b. State Highway 29 between Vallejo and Calistoga.
  - c. Unnumbered highway from junction at U.S. Highway 101 to junction with State Highway 12 between Petaluma and a point outside Shellville.
  - d. State Highway 1 between San Francisco and Half Moon Bay.
  - e. U.S. Highway 40 between San Francisco and Auburn.
  - f. U.S. Highway 50 between San Francisco and Stockton.
  - g. State Highway 4 between intersection with U. S. Highway 40 and intersection with State Highway 24.
  - h. State Highway 24 between Oakland and its junction with State Highway 4.
  - i. State Highway 17 between San Jose and Santa Cruz.
  - j. State Highway 1 between Santa Cruz and Watsonville.
  - k. State Highway 152 between Gilroy and its intersection with U.S. Highway 99.
  - l. U.S. Highway 99 between Sacramento and McFarland.

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2. From, to and between all of the aforesaid highway points and from, to and between the following points located off the identified highways, Seaside, Pacific Grove, Monterey, Carmel, Hollister, Oakdale, Patterson, Newman, Dos Palos, Firebaugh, Kerman, Clovis, Centerville, Orange Cove, Orosi, Dinuba, Selma, Sanger, Lemoore, Hanford, Visalia, Corcoran, Lindsay, Porterville, Wasco and Shafter.
3. Between all points identified in subparagraphs 1 and 2, on the one hand, and, on the other hand, all points located in Los Angeles County, California.

Frequency of service shall be Monday through Friday, inclusive,

Applicant may use any and all available streets and highways between the points described for operating convenience only.

Through routes and rates may be established between any and all points described in subparagraphs 1 and 2 above.

Restriction:

The consignor or consignee of a shipment must be a motion picture theater or a motion picture film distributor.

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