

ORIGINALDecision No. 67438

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of RAMS EXPRESS, a corporation,
for a Certificate of Public
Convenience and Necessity to
operate as a highway common
carrier for the transportation
of property to, from and between
points and places in the Los
Angeles Basin Territory.

Application No. 45000
(Filed December 3, 1962)

Donald Murchison, for applicant.
Russell & Schureman, by R. Y. Schureman,
for Brake Delivery Service, Burton Truck
& Transfer Co., City Transfer, Inc., G & H
Transportation, Inc., Griley Security
Freight Lines, Mercury Freight Lines,
Qwikway Trucking Co., Ronga Truck Company,
S and M Freight Lines, Square Deal Trucking
Co., Swift Transportation Company; Arthur H.
Glanz, for Boulevard Transportation Company,
California Cartage Company, California Motor
Express, Ltd., Delta Lines, Inc., Halverson
Transportation, Merchants Express of
California, Murphy Transportation, Southern
California Freight Lines, Inc., Pacific
Intermountain Express Co., Pacific Motor
Trucking Company, T.I.M.E. Freight, Inc.
dba Constructors Transport Co., and Valley
Motor Lines, Inc.; protestants.

O P I N I O N

This application was heard before Examiner DeWolf on
May 21 and 22, August 13, 14 and 15, 1963, and oral argument was
had on March 30, 1964, on which date it was submitted. Copies
of the application and the notice of hearing were served in accord-
ance with the Commission's procedural rules. The protestants are:

Brake Delivery Service, Burton Truck & Transfer Co., City Transfer, Inc., G & H Transportation, Inc., Griley Security Freight Lines, Mercury Freight Lines, Quikway Trucking Co., Ronga Truck Company, S and M Freight Lines, Square Deal Trucking Co., Swift Transportation Company, Boulevard Transportation Company, California Cartage Company, California Motor Express, Ltd., Delta Lines, Inc., Halverson Transportation, Merchants Express of California, Murphy Transportation, Southern California Freight Lines, Inc., Pacific Intermountain Express Co., Pacific Motor Trucking Company, T.I.M.E. Freight, Inc. dba Constructors Transport Co., and Valley Motor Lines, Inc.

Fifteen of the protestants appeared at the hearings and submitted testimony in protest to the application.

Applicant, a highway permit carrier engaged in the transportation of general commodities in the Los Angeles Basin Territory, requests authorization to conduct operations therein as a highway common carrier.

Applicant proposes to provide a service that will be on call and conducted on a daily basis except on Sunday between points in the Los Angeles Basin Territory, and to publish a tariff with rates and charges substantially in conformity with minimum rates and rules prescribed by the Commission.

Applicant amended the application by withdrawing its request for authority to transport commodities in interstate and foreign commerce. The protest of Murphy Transportation was withdrawn because it does not hold any intrastate authority.

Applicant has been engaged in the transportation business since January 1961, and is now operating twenty-six vehicles, with twenty-one employees and maintains a terminal at 3336 Fruitland Avenue, Los Angeles 58, California. Applicant's net worth is approximately \$76,000 and as of February 28, 1963, it had a net profit of \$15,446 on total revenues of \$182,618 for the previous eight months. Applicant presently is serving seventy-five shippers and the proposed service will result in operating economics and convenience to the shippers through a closer relationship between the shipper and the carrier, a scheduled daily pickup service, less congestion at the shipper's dock, less paper work and other benefits. The entire Los Angeles Basin Territory has become a single integrated economic and commercial area for direct daily and overnight service and applicant overers that intermediate transfers by its shippers within the territory cause delay and dock congestion.

Applicant presented sixteen shipper witnesses who testified in support of the application. Each testified that he has substantial need for the proposed service to give a single line operation for regular service to all points in the proposed territory and to reduce time in transit, dock congestion and otherwise improve the present service.

These shipper witnesses testified regarding the movement of substantial amounts of freight on a daily basis to most all points in the basin territory from the following well known manufacturers and distributors: Parker Aircraft Co., General Electric Co., Ohio Rubber Co. of California, C H B Foods, Inc., John S. Fry Co., Anning Johnson Co., Litton Systems, Inc., Zila Mfg. Co., Wilshire Oil Co., Zenith Printing Co., Diamond National Corp., Standard Brands, Inc., Vick Mfg. Div., Ace Export Co., Columbia Lighting Co., and Nee Bars, Inc.

Another shipper witness testified that he had real touchy customers in the baking business and needed a carrier who would cooperate with him in satisfying these customers.

All of these shipper witnesses testified that they require overnight daily service at various times to all points in the basin territory. Nearly all of the witnesses testified to the need of special services to meet special requirements in their business such as special lift gates at early hours or on call and careful handling and courteous service to their customers. All of these shippers testified that they were engaged in highly competitive businesses and stated that they selected their transportation carrier with this in mind in order to obtain and keep their customers.

One shipper witness testified that he wants five-day pickup, with occasional Saturday pickup at 6 or 7 p.m., and that he failed to get satisfactory service from other carriers and one carrier turned down the business.

Another shipper witness testified that he ships to all points in the basin and requires specific delivery times to his

customers and was not solicited for this local business from other carriers.

Another shipper witness, shipping 10,000 lbs. daily and over a period of time to 80 per cent of the points in the basin, testified that he uses applicant for "hot shot" pickups for next day delivery in good shape to the customer.

Another shipper had food freight left on the dock of another carrier and testified that it requires prompt service with no delays.

Several shippers testified to the need for early morning delivery.

The shipper witnesses all testified when asked, that they had not made any survey of the different types of truck transportation available and that they selected their carriers by the trial and error process keeping any carrier rendering good service and changing when they needed improved or better service.

Nearly all the shipper witnesses testified that they ship to most of the points in the Los Angeles Basin Territory and many different varieties of commodities were handled, such as aircraft and missile valves and fittings, fuel, air-ground handling equipment; these are engineered to fine tolerances and are expensive items; circuit breakers, service entrance equipment, safety switches, electrical switches, electrical equipment, reclaimed rubber and rubber products; food products, dressings, preserves, syrups, pickles, beans, synthetic fabrics and materials, acoustical tiles, steel products, extruded aluminum, electronic equipment, paper, wire, rest-room materials, cups, electronic enclosures, screw-machine parts and

steel bars, packaged lubricating oils and greases, printed advertising matter, knocked down egg cartons, molded pulp, packaged food and bulk food materials, drugs and drug products, package commodities, florescent lighting materials, steel products, stainless alloys, bronze, brass and aluminum rods and shapes.

The shipper witnesses generally testified that they do not have knowledge of the kinds of transportation available and do not understand or distinguish the difference between permitted and certificated carriers.

Exhibit No. 2 is a map of the Los Angeles Basin Territory. Exhibits Nos. 3 and 4 are the balance sheet and profit and loss statement of applicant dated February 28, 1963.

Exhibits Nos. 6 through 40 were introduced by the protestants and show their authority to operate as common carriers and the extent of their operations, and also point lists, advertising brochures, terminal information, and statistics regarding their authority, accounts and rates. Protestants testified they have truck capacity and offer daily overnight service sufficient to handle additional freight in the proposed area.

Fifteen of the twenty-three protestants presented witnesses who testified in opposition to the application. These parties represent a large segment of the trucking industry; however, two of the smallest of these operators are probably about the same size as the applicant and the largest of the protestants has over 5,000

pieces of equipment as compared with the applicant's twenty-six. Several of the protestants are about twice the size of the applicant and one of these operators testified that he purchased his operating rights at a bankruptcy sale for \$26,000. All of the large protestants emphasized available space in their trucks and some testified to losses in recent years.

During the past few years, there has been a substantial increase in population and industry in the points and places presently served and proposed to be served by applicant.

The record herein shows that the applicant is providing a necessary and specialized service for the sixteen shippers who testified that they receive, when they need it, same-day or next-day delivery service. They are satisfied with the applicant's services which they are receiving, want such services continued and will use them if a certificate is granted.

The fundamental issues presented by this record are as follows:

1. Do public convenience and necessity require the proposed service?
2. Are the present services adequate?
3. If the certificate is granted, will service presently available in the requested area be impaired or withdrawn to the injury of the shipping public in that area?

Upon consideration of the evidence, the Commission finds that:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the service hereinafter authorized.

2. The shippers who have made use of applicant's service do not now have, and have not had, adequate transportation service available from protestants, or otherwise, to satisfy said shippers' requirements in an efficient and speedy manner.

3. The shippers who make use of applicant's services will be afforded advantages such as same-day delivery, direct service and the ready availability of power tailgate equipment.

4. A grant of the application will not adversely affect protestants.

5. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

Rams 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 be and it is granted to Rams Express, 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 of the California Highway Patrol, the 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 rules 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 23rd day of June, 1964.

[Signature] President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

I dissent.

In my opinion, public convenience and necessity do not require the issuance of the proposed certificate. Specifically, I do not believe the evidence justifies Findings 2, 3 and 4. Moreover, from all that appears in the Commission opinion, the shippers who support applicant's request are receiving satisfactory service on a permitted basis; there is no adequate showing of any need for a conversion to certificated authority.

George H. Trevor

Commissioner

Rams Express, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities to, from and between all points and places in the Los Angeles Basin Territory, as described in Appendix B attached hereto.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
2. 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 and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, live poultry, mules, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

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7. Fresh fruits and vegetables, nuts in the shell and mushrooms, from point of growth or from accumulation points to canneries, packing sheds, precooling plants, wineries and cold storage plants.
8. Explosives as described in and subject to the regulations of Motor Carriers' Explosives and Dangerous Articles Tariff 11, Cal. P.U.C. 6, American Trucking Associations, Inc., Agent, on the issue date thereof.
9. Articles of extraordinary value as set forth in Rule 15 of National Motor Freight Classification A-7, Cal. P.U.C. 1, National Motor Freight Traffic Association, Inc., Agent, on the issue date thereof.
10. House trailers, trailers other than house trailers, portable units designed for human occupancy other than trailers, and parts, contents or supports for such articles when accompanying such equipment.
11. Furniture, as described under the heading "Furniture Group" in National Motor Freight Classification A-7, Cal. P.U.C. 1, National Motor Freight Traffic Association, Inc., Agent, on the issue date thereof, and lamp shades or reflectors and lamp standards or electric lamps and shades combined when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped).
12. Garments on hangers.
13. Baled hay, fodder and straw.
14. Logs.
15. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.

End of Appendix A

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APPENDIX B TO DECISION NO. 67438

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