

ORIGINALDecision No. 68871

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BLYTHE TRANSPORTATION, a California corporation, to sell, and LOM THOMPSON, doing business as THOMPSON TRUCK LINES, to purchase operative rights.

Application No. 46577

In the Matter of the Application of LOM THOMPSON doing business as THOMPSON TRUCK LINES for an extension of his present operating rights as a highway common carrier for the transportation of general commodities, with certain exceptions, and for an in lieu certificate.

Application No. 46578
(Amended)

F. W. Turcotte, for Lom Thompson and Blythe Transportation Company, applicants.

O P I N I O N

Application No. 46577 seeks authority for Blythe Transportation (hereinafter called Blythe) to sell and transfer its highway common carrier operating rights to Lom Thompson, doing business as Thompson Truck Lines (hereinafter called Thompson). Thompson seeks, in Application No. 46578, as amended, an extension of his highway common carrier operating rights and an in lieu certificate of public convenience and necessity restating all of his operating rights. The two applications were consolidated for hearing because of their related subject matter.

A duly noticed public hearing was held in these consolidated matters before Examiner Jarvis at Blythe on January 27, 1965, and these matters were submitted on that date. No protestants appeared at the hearing.

Blythe holds a certificate of public convenience and necessity authorizing it to transport: (1) general commodities, with the usual exceptions, between Los Angeles, Riverside, and Indio on the one hand, and the City of Blythe and points in California within 25 miles of the City of Blythe, on the other hand; (2) liquors, beverage, as set forth in certain items of the Western Classification, between Azusa, Claremont, and Ontario, on the one hand, and the City of Blythe and points in California within 25 miles of the City of Blythe, on the other hand; and (3) cement, hydraulic, masonry, etc., between Corona, on the one hand, and the City of Blythe and points in California within 25 miles of the City of Blythe, on the other hand. Blythe also holds permits to operate as a radial highway common carrier, city carrier and household goods carrier. Blythe seeks authority to sell and transfer only the aforesaid highway common carrier operating rights. If the transfer is authorized, it will retain all of its operating equipment and continue to operate under its permits.

Thompson holds a certificate of public convenience and necessity to transport general commodities, with limited exceptions, between the Los Angeles Territory, Buena Park, Fullerton and Bellflower, on the one hand, and all points and places on U. S. Highways Nos. 60 and 86 (formerly U. S. Highway No. 99) between Beaumont and the Imperial County line and all that portion of Imperial County, California, which lies west of the main All American Canal to Coachella Valley, on the other hand. The only territory served by Blythe, as a highway common carrier, which Thompson does not now have the authority to serve, consists of the points of Azusa, Claremont, Corona, Ontario and Riverside, on the one hand and points in California within 25 miles of the City of Blythe, on the other hand.

The record discloses that Blythe has been losing money on its highway common carrier operations. These losses result from the fact that the primary commodities shipped from the City of Blythe and surrounding area are produce and cattle; that many produce warehouses and slaughter houses have moved from the City of Los Angeles to surrounding areas; that Blythe cannot transport commodities directly to these new locations; that it was necessary to interline and establish joint rates with other common carriers to handle said traffic from the City of Blythe and surrounding area to points outside the City of Los Angeles; that the interlining caused delays in transportation which were unsatisfactory to shippers and receivers of freight and that the joint rate arrangements contributed to making Blythe's highway common carrier operations unprofitable. The record also indicates that because the western portion of Blythe's operating authority was limited to the City of Los Angeles, it was unable to generate a profitable backhaul business to the City of Blythe and surrounding area.

Thompson has agreed, subject to the authorization of this Commission, to purchase Blythe's operating rights for \$1,000. The record indicates that Thompson owns and operates approximately 24 tractors, 33 bobtails, 36 vans, and 29 flat racks, pole dollies and pieces of special equipment. Thompson had a net profit after taxes of \$21,031 for the first eleven months of 1964. If Thompson acquires the Blythe operating rights, he will be able to furnish a better service to the people in the area. If the Blythe and Thompson rights are combined, Thompson will be able to give shippers in the City of Blythe and surrounding area direct transportation to the produce warehouses and slaughter houses in the Los Angeles area. Furthermore, Thompson, who now serves the Los Angeles Territory, Buena Park,

Fullerton, and Bellflower, presently has a compensatory backhaul business from these points to the area near the City of Blythe. The Commission is of the opinion that the requested transfer of operating rights should be granted. Appropriate findings and conclusions will hereinafter be entered.

Thompson seeks, in Application No. 46578, as amended, an extension of his highway common carrier operating rights. He requests authority to transport general commodities between all points and places in Imperial County which lie west of the main All American Canal, on the one hand, and the City of Blythe and all points within 25 miles of the City and certain intermediate points on the Ben Hulse Highway, on the other hand.

The record discloses that within the past year the Ben Hulse Highway (State Highway No. 78) was completed and opened for traffic. The Ben Hulse Highway runs between the City of Blythe and Brawley. It passes through Ripley, Palo Verde, Glamis and Alamo. Prior to the opening of the Ben Hulse Highway, freight shipped between the City of Blythe and Brawley had to pass through Indio, over a route of approximately 212 miles, or through Los Angeles, over a route of approximately 400 miles. The distance between the City of Blythe and Brawley over the Ben Hulse Highway is approximately 65 miles. There is presently no highway common carrier authorized to serve between the City of Blythe and the Imperial Valley over the Ben Hulse Highway.

Thompson proposes a daily service between the City of Blythe and the Imperial Valley, Mondays through Fridays, and to charge mileage rates for the service. This would result, depending on the time of shipment, in same day or overnight service. If the requested additional operating rights are authorized, the reasonable

probability is that there would be a reduction in freight rates in the near future between the City of Blythe and the Imperial Valley, because of the newly opened shorter route.

Numerous witnesses testified in support of Application No. 46578, as amended. In general, these witnesses testified that the present service between the City of Blythe and surrounding area and the Imperial Valley was unsatisfactory. Some of the witnesses indicated that shipments between these areas often took two or three days, and, on occasion, as long as one week. The chief procurement supervisor of the U. S. Gypsum Company Midland Plant indicated that the company had plants in Plaster City (in the Imperial Valley) and at Midland (within 25 miles of the City of Blythe); that these plants manufactured the same product; that, on occasion, quality control problems arise at one of the plants and the plant can be kept in operation by obtaining good quality materials from the other plant; that if the proposed service were authorized it would, on occasion, make the difference as to whether one of the plants would operate on a given day; that there was also a certain amount of interplant shipment of materials; that in 1964, 59,352 pounds of freight were shipped between the two plants, and 12,000 pounds were shipped in January, 1965; and that if Thompson were authorized to give the proposed service, the volume of shipments would increase approximately 20 percent. Owners or managers of various businesses in the Imperial Valley or in the area near the City of Blythe testified that there were branches of the same business or related franchise holders in the other area; that it was often necessary to obtain or exchange merchandise from one area to the other; and that the proposed service would permit them to give quicker and better service to their customers and to better compete for business. In view of the evidence heretofore established, the Commission is of the opinion that

Application No. 46578, as amended, should be granted, and appropriate findings and conclusions will be entered.

No other points require discussion. The Commission makes the following findings and conclusions:

Findings of Fact

1. Public convenience and necessity require that Thompson be granted a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of general commodities, with certain exceptions, between all points and places in Imperial County which lie west of the main All American Canal, on the one hand, and the City of Blythe and all points and places within 25 miles of said City and all intermediate points on the Ben Hulse Highway between Glamis and the City of Blythe, on the other hand.

2. Thompson has the ability, including financial ability, to conduct operations under the certificate provided for in paragraph 1 of these findings.

3. The transfer of Blythe's highway common carrier operating rights from Blythe to Thompson would not be adverse to the public interest.

4. If the transfer of operating rights from Blythe to Thompson is effectuated, it would avoid confusion among the shipping public and assist the Commission in the performance of its regulatory functions if Thompson's operating rights were consolidated and restated in an in lieu certificate of public convenience and necessity.

Conclusions of Law

1. Thompson should be granted a certificate of public convenience and necessity authorizing him to operate as a highway common carrier for the transportation of general commodities, with certain exceptions, between all points and places in Imperial County which lie west of the main All American Canal, on the one hand, and the City of Blythe and all points and places within 25 miles of said City and all intermediate points on the Ben Hulse Highway between Glamis and the City of Blythe, on the other hand.

2. Blythe should be authorized to sell and transfer and Thompson to purchase and acquire all of Blythe's highway common carrier operating rights in accordance with the agreement which is attached to Application No. 46577 as Exhibit H.

3. If Blythe transfers and Thompson acquires the operating rights referred to in paragraph 2 of these conclusions of law, Thompson should be granted an in lieu certificate of public convenience and necessity consolidating and restating all of his highway common carrier operating rights.

O R D E R

1. A certificate of public convenience and necessity is hereby granted to Lom Thompson authorizing the transportation of property as a highway common carrier as defined by Section 213 of the Public Utilities Code between all points and places in Imperial County which lie west of the main All American Canal, on the one hand, and the City of Blythe and all points and places within 25 miles of said City and all intermediate points on the Ben Hulse Highway, on the other hand.

2. Lom Thompson, by the certificate of public convenience and necessity granted in paragraph 1 of this order is authorized to transport general commodities with the following exceptions:

- (a) 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. 4-3;
- (b) 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, truck and trailers combined, buses and bus chassis;
- (c) Liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or of a combination of such highway vehicles; and
- (d) Commodities when transported in bulk in dump trucks or in hopper-type trucks.

3. In providing service pursuant to the certificate herein granted, Lom Thompson shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, Lom Thompson 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 he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules of the California Highway Patrol, and the insurance requirements of the Commission's General Order No. 100-C. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the safety rules, or the provisions of General Order No. 100-C, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, Lom Thompson 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.

4. On or before July 30, 1965, Blythe Transportation, a California corporation, may sell and transfer, and Lom Thompson may purchase and acquire, the operative rights referred to in Application No. 46577.

5. Within thirty days after the consummation of the transfer herein authorized, Lom Thompson shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

6. The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Lom Thompson shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, of Blythe Transportation, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

8. If the transfer of operating rights authorized in paragraph 4 of this order is effectuated, then, in such event, a certificate of public convenience and necessity is hereby granted to Lom Thompson authorizing the transportation of property as a highway common carrier, as defined by Section 213 of the Public Utilities Code, for the commodities and between the points and over the routes set forth in Appendices A and B attached hereto and made a part hereof. The certificate of public convenience and necessity granted in this ordering paragraph supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Lom Thompson and presently possessed by him, which certificates are hereby revoked, said revocation to become effective upon the effectuation of the transfer of operating rights authorized in paragraph 4 of this order.

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

Dated at San Francisco, California, this 13th day of APRIL, 1965.

Fredrick B. Holdhoff
President
John J. [unclear]
George J. [unclear]
[unclear]
William A. [unclear]
Commissioners

Lom Thompson, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to transport:

1. General Commodities between Los Angeles Territory, as described in Appendix B attached hereto, Bellflower, Buena Park, Fullerton, Indio and Riverside, on the one hand, and on the other hand:
 - (a) All points and places on U. S. Highways Nos. 60 and 86 and State Highway No. 111 between and including Beaumont and the Riverside-Imperial County Line.
 - (b) All points and places in that portion of Imperial County, California, which lies west of the main All American Canal to Coachella Valley.
 - (c) All points and places on U. S. Highway 60 between Indio and Blythe, inclusive.
 - (d) All points and places in California within 25 miles of Blythe.
2. General Commodities between all points and places in that portion of Imperial County, California, which lies west of the main All American Canal, on the one hand, and on the other hand:
 - (a) All points and places on State Highway No. 78 between Glamis and the Riverside-Imperial County Line, inclusive
 - (b) All points and places in California within 25 miles of Blythe.
3. Liquors, beverage, as listed under that heading in Items Nos. 111400 through 111532 of National Motor Freight Classification A-8(CAL), F. G. Freund, Issuing Officer, on the issue date thereof, between Azusa, Claremont and Ontario, on the one hand, and all points and places described in paragraphs 1(a), 1(b), 1(c) and 1(d) hereof, on the other hand.

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4. Cement, hydraulic, masonry, mortar, natural or Portland, in sacks, and blocks, building, hollow, or briquettes, slag or cinders and Portland cement combined, between Corona, on the one hand, and all points and places described in paragraphs 1(a), 1(b), 1(c) and 1(d) hereof, on the other hand.

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. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
4. Commodities when transported in bulk in dump trucks or in hopper-type trucks.

END OF APPENDIX A

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APPENDIX B TO DECISION NO. 68871

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation 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 No. 101, Alternate; thence northerly along an imaginary line to point of beginning.