

**ORIGINAL**

Decision No. 70059

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JAMES L. CHASE, an individual doing business as KERN VALLEY TRANSFER, for an in lieu certificate of public convenience and necessity as a highway common carrier of general commodities, with the usual exceptions, to operate between the Los Angeles Basin Territory, on one hand, and Dunnigan and Lincoln and intermediate points, on the other hand.

Application No. 47134  
(Filed November 20, 1964)  
(Amended July 13, 1965)

Turcotte and Goldsmith, by Jack O. Goldsmith, for applicant.

Arthur Glanz, for Boulevard Transportation Company, California Cartage Company, California Motor Transport Co., Delta Lines, Inc., Desert Express, Di Salvo Trucking Company, Wallcup's Merchants Express, Oregon-Nevada-California Fast Freight, Pacific Intermountain Express Co., Pacific Motor Trucking Company, Ringsby-Pacific Ltd., Shippers Express, Southern California Freight Lines, Inc., Sterling Transit Co., Inc., T.I.M.E. Freight, Inc., and Willig Freight Lines, interested parties.

O P I N I O N

This application, as originally filed, was for authority to pick up and deliver intrastate shipments at any point in the Los Angeles Basin Territory, as described in Minimum Rate Tariff No. 2, which shipments originated at or were destined to points applicant is presently authorized to serve north of San Fernando. A hearing on this application was held before Examiner Rogers at Los Angeles on March 23, 1965, on which date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The parties represented by Arthur Glanz originally appeared as protestants, but withdrew their protests

when the application was amended to reduce the Los Angeles pickup and delivery area to that authorized by the order herein.

On May 25, 1965, the Commission issued its Decision No. 69130 herein, granting applicant the intrastate authority requested by the amended application. Thereafter, at the request of applicant, this Commission issued Decision No. 69320 herein, dated June 29, 1965, which vacated Decision No. 69130, and reopened the application herein to permit applicant to file an amendment to his application, requesting authority to engage in interstate and foreign commerce within limits not exceeding the scope of applicant's intrastate authority as existing or as granted pursuant to the application herein.

Thereafter, on July 13, 1965, applicant filed an amendment to his Application No. 47134 as amended, requesting a certificate of public convenience and necessity as a highway common carrier by motor vehicle in interstate commerce co-extensive with the intrastate highway common carrier rights granted to applicant, pursuant to the provisions of Section 206(a) of the Interstate Commerce Act as amended by Public Law 87-805. Copies of this amendment to the application were mailed to all known interested parties. Notice of filing of the amended application was published in the Federal Register on August 18, 1965. A public hearing on the amended application was held in Los Angeles before Examiner Rogers on October 11, 1965 to permit the production of evidence not presented at the prior hearing relative to interstate and foreign commerce operations. There were no protests. All evidence presented at both hearings has been considered by the Commission in rendering its decision herein.

Applicant is a highway common carrier presently transporting general commodities, with exceptions, between various places in California pursuant to authority granted and specified in numerous decisions of this Commission, including Decision No. 61846, dated

April 18, 1961, in Application No. 42507; Decision No. 62024, dated May 22, 1961, in Application No. 42507; Decision No. 62858, dated November 29, 1961, in Application No. 42507; Decision No. 63300, dated February 20, 1962, in Application No. 43901; Decision No. 63498, dated April 3, 1962, in Application No. 43901; and Decision No. 63512, dated April 3, 1962, in Application No. 43516. Applicant also requests that his operating rights be restated. Such request will be granted.

Applicant's certificates authorize service generally between Dunnigan and Lincoln, on the one hand, and the Los Angeles Territory, on the other hand, subject to certain restrictions. Said Territory extends roughly from Sepulveda and Beverly Hills, on the west, to Monrovia, Whittier, Santa Fe Springs, and Lakewood, on the east. By the application herein, as amended, applicant requests that said Territory be extended slightly on the east and on the north to include certain delivery zones plus the Cities of Pomona, Glendora, La Habra, Brea, Fullerton, and Stanton. Applicant testified that due to the traffic congestion, the high price of land, the high taxes, the lack of sufficient ground to park, and various other circumstances, many of the industries served by applicant and formerly located in the Los Angeles Territory, which he serves, have moved and others are moving to points in the Los Angeles Basin Territory situated in the extended Los Angeles pickup and delivery area and cities described in the order herein. He further testified that these industries desire the service proposed to be rendered by applicant.

In addition to the intrastate operations, the applicant testified that he interlines with an interstate carrier, which has terminals in San Francisco, Oakland, Sacramento and Stockton, interstate and foreign traffic originating at or destined to points in his existing authorized Los Angeles service area and points in the proposed extension of said service area. On shipments to and from the sought area and cities, applicant is now required to interline such shipments via another carrier, causing an additional day's delay in transit. The shippers and consignees desire, he said, that he be permitted to carry such shipments, thus eliminating the delays in transit caused by interlining.

Applicant will use his present equipment and facilities to provide the extended service.

As of August 31, 1965, applicant had a net worth of \$200,981. For the eight months ending August 31, 1965, he had net income from his highway common carrier operations of \$55,152 before income taxes.

#### Findings

Upon consideration of the record, the Commission finds that:

1. Applicant possesses the experience, equipment and financial resources to maintain the proposed service in interstate and foreign and intrastate commerce.
2. Notice of the filing of the application for a certificate of public convenience and necessity as a highway common carrier in interstate and foreign commerce was published in the Federal Register on August 18, 1965.
3. Reasonable opportunity was afforded interested persons to be heard.

4. Public convenience and necessity require that applicant be authorized to engage in operations in interstate and foreign commerce co-extensive with its operations in intrastate commerce, within limits which do not exceed the scope of the intrastate operations herein authorized.

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

Conclusions

The Commission concludes that the application should be granted as set forth in the ensuing order and that a restated certificate should be issued setting forth all of applicant's operating authority.

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 be, and it is, granted to James L. Chase authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendices A and B attached hereto and hereby 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 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-D. 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-D, 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificates of public convenience and necessity granted or acquired by James L. Chase in Decisions Nos. 61346, 62024, 62358, 63300, 63492 and 63512, which certificates are hereby 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 7<sup>th</sup> day of DECEMBER, 1965.

Friedrich B. Holdhoff  
President

John E. Nitzsche

George G. Trover

Augustus

William W. Bennett  
Commissioners

James L. Chase, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places on and along the following routes:

1. U. S. Highway 99, including points within ten miles laterally therefrom, between the Los Angeles Territory, as described in Appendix B attached hereto, and Wheeler Ridge, inclusive. (See Exceptions 1 and 2 below.)
2. U. S. Highway 99, including points within twenty-five miles laterally therefrom, between Wheeler Ridge and Fresno, inclusive, including points within a ten-mile radius of the following:
  - a. The junction of U. S. Highway 99 and State Highway 180 within the City of Fresno.
  - b. The junction of State Highways 198 and 41 near Lemoore.
  - c. The junction of State Highway 180 and unnumbered highway known as Valley Road near Squaw Valley.
3. U. S. Highways 99, 99W and 99E between Fresno and Dunnigan and Lincoln, inclusive, including points and places within a twenty-mile radius of the corporate limits of the City of Sacramento (see Exception 2 below), and including the off-route points of Escalon, Riverbank and Oakdale.
4. U. S. Highway 50 between Stockton and Tracy, inclusive.
5. State Highway 33 between junction with U. S. Highway 50 near Tracy and Maricopa, including the off-route points of Huron, Kettleman City and Ford City.

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6. U. S. Highway 6, including points within ten miles laterally therefrom, between its junction with U. S. Highway 99 near San Fernando and a point five miles north of Lancaster, inclusive, including the off-route points of Quartz Hill, Pearblossom and Rosamond (see Exception 1 below).
7. Through routes and rates may be established between any and all points specified in subparagraphs 1 through 6 above.
8. For operating convenience only, applicant is authorized to traverse U. S. Highway 6 between a point thereon five miles north of Lancaster and Mojave, and U. S. Highway 466 between Mojave and a point thereon twenty-five miles east of U. S. Highway 99, serving no points or places on or laterally from U. S. Highways 6 and 466.

## EXCEPTIONS:

1. Applicant is not authorized to serve Newhall, Saugus and Castaic or the off-route point of Rosamond except in conjunction with split delivery shipments.
2. Applicant is not authorized to provide local service between points
  - a. Within the Los Angeles Territory;
  - b. Within a 20-mile radius of the corporate limits of the City of Sacramento.

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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, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. 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.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

End of Appendix A

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LOS ANGELES TERRITORY includes the Cities of Pomona, Glendora, La Habra, Brea, Fullerton and Stanton, plus the area embraced by the following boundary: Beginning in the County of Los Angeles 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 to Lopez Canyon Road at the boundary of the Angeles National Forest, southerly and easterly and along the boundary of the Angeles National Forest to the city limits of Los Angeles, easterly and along the city limits of Los Angeles to the Angeles National Forest, easterly and along the boundary of the Angeles National Forest to the city limits of Pasadena, northerly, easterly and southerly along the city limits of Pasadena to the boundary of the Angeles National Forest, easterly and along the boundary of the Angeles National Forest to the city limits of Pasadena, easterly and along the city limits of Pasadena to the boundary of the Angeles National Forest, easterly along the boundary of the Angeles National Forest to the prolongation of Ben Lomand Avenue, southerly along the prolongation of Ben Lomand Avenue and Ben Lomand Avenue and Barranca Avenue to Cienega Avenue, easterly along Cienega Avenue to San Dimas Avenue, southerly and along San Dimas Avenue to the San Bernardino Freeway; easterly along the San Bernardino Freeway to Arroyo Avenue, easterly along Arroyo Avenue to the city limits of Pomona, southeasterly and along the city limits of Pomona to Valley Boulevard, southwesterly along Valley Boulevard to La Puente Road, southwesterly along La Puente Road to Lemon Avenue, southeasterly along Lemon Avenue to Lemon Road, southerly along Lemon Road to Walnut Drive; southwesterly along Walnut Drive to Brea Canyon Cut-off; southerly and along Brea Canyon Cut-off to 5th Avenue; westerly along 5th Avenue to Fullerton Road; southerly and along Fullerton Road to the Los Angeles-Orange County Line; westerly along the Los Angeles-Orange County Line to Valley Home Avenue, southerly along Valley Home Avenue and its prolongation to Magnolia Street, southerly along Magnolia Street to Orange Avenue, westerly along Orange Avenue to Knott Avenue; southerly along Knott Avenue to Ball Road, westerly along Ball Road to the west bank of the San Gabriel River, northerly along the west bank of the San Gabriel River to Harney Way, westerly along Harney Way to its intersection with State Highway No. 119, southerly along State Highway No. 119 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.