

Decision No. 70841**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CARL ALBIN, an individual, doing business as RAINBOW TRUCK CO., to extend highway common carrier operations.

Application No. 47394
(Filed March 5, 1965)
(Amended March 14, 1966)

Warren N. Grossman, for Carl Albin, dba Rainbow Truck Co., applicant.

Russell & Schureman, by Carl H. Fritze, for Brake Delivery Service, Burton Truck & Transfer Co., City Transfer, Inc., G & H Transportation, Inc., Griley Security Freight Lines, Quikway Trucking Co., and S and M Freight Lines; and Arthur H. Glanz, for Alco Transportation Company, Boulevard Transportation Company, California Cartage Company, California Motor Transport Co., Delta Lines, Inc., Desert Express, Di Salvo Trucking Company, Oregon-Nevada-California Fast-Freight, Pacific Intermountain Express Co., Pacific Motor Trucking Company, Ringsby-Pacific, Ltd., Shippers Express Company, Southern California Freight Lines, Inc., Sterling Transit Co., Inc., T.I.M.E. Freight, Inc., Walkup's Merchants Express and Willig Freight Lines, protestants.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on February 1 and March 14, 1966 and was submitted on the latter date subject to the filing of Exhibit 12 since received.

Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. Numerous protestants appeared through their attorneys on February 1, 1966

and stipulated with applicant for a continuance of the hearing to March 14, 1966 for the purpose of allowing discussions between the protestants and applicant to amend the scope of the application to satisfy the objections of the protestants. By amendment at the hearing on March 14, 1966 the scope of the application was restricted. Protestants did not appear at the adjourned hearing, did not oppose the amended application and offered no evidence in connection therewith.

Applicant is a highway common carrier presently transporting general commodities between points in the Los Angeles Area described in Appendix "B" of Decision No. 54158 dated December 4, 1956 and between such area, on the one hand, and San Diego, on the other hand. Applicant requests authorization in the application, as amended, to extend such highway common carrier operations so as to transport general commodities with certain restrictions in the Los Angeles Basin Territory as delineated in Appendix "C" hereto attached. He proposes no other changes in rates, schedules or methods of service.

Applicant introduced into evidence twelve exhibits described as follows: Exhibit 1 is a copy of applicant's present authority, Decision No. 54158; Exhibits 2, 3, 4 and 5 are large photographs of applicant's buildings and equipment; Exhibits 6, 7, 8, 9 and 10 are respectively: a list of equipment, Balance Sheet dated December 31, 1965, Statement of Earnings dated December 31, 1965, Summary of Major Customers, and a map of the Los Angeles Basin Territory; Exhibit 11 is a list of shippers who support the application, and late-filed Exhibit 12 is a description of the authority requested and the territory to be covered thereby.

Applicant testified that in his operations he utilizes a four-acre yard and terminal valued at \$220,000, 51 employees, and 70 units of equipment. He stated he has three diesel units on order, that he has an active safety-driver training program, that his total capital exceeds \$400,000 and that revenue for the year ended December 31, 1965 was over \$790,000 with net profit of \$108,000.

The applicant further testified that he needs the extended authority because some of his shippers are not familiar with the boundaries of the territory, want to ship on master bills of lading with split delivery in areas served both under the certificate and under applicant's radial permits, and that many of applicant's shipments on the radial permits are outside applicant's present territory.

Two shipper witnesses, in supporting the application, testified that they have used applicant's service many years and wish him to handle all their freight; that they have had excellent service and that the added service will increase the efficiency of and reduce the congestion in their shipping operations.

Applicant testified that the shippers named on Exhibit 11 had expressed to him a willingness to appear and testify in support of the application.

Upon consideration of the evidence, the Commission finds that:

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

2. Applicant has the necessary financial ability, experience, facilities, equipment and personnel to provide the expanded service hereinafter authorized.

Carl Albin, an individual, doing business as Rainbow Truck Co., 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 Carl Albin, an individual, doing business as Rainbow Truck Co., authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code.

2. Appendix A of Decision No. 54158, as heretofore amended, is further amended by incorporating therein Second Revised Page 1 and Original Page 2, attached hereto, in revision of First Revised Page 1.

3. Decision No. 54158 is further amended by incorporating therein Appendix C, attached hereto and made a part of said decision.

4. In providing service pursuant to the authority 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 authority herein granted.
- (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.
- (e) Applicant shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

5. In all other respects, Decision No. 54158 as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 14th day of JUNE, 1966.

Frederick P. Halchoff
President
John P. ...
George J. ...
...
...
Commissioners

Carl Albin, an individual, doing business as Rainbow Truck Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

1. All points in the Los Angeles area more particularly delineated in Appendix "B" attached hereto.
2. Such Los Angeles area described in Appendix "B", on the one hand, and San Diego, on the other hand. The authority set forth in this paragraph 2 does not include the right to render service to, from or between points intermediate to such area and San Diego.
3. All points in the Los Angeles Basin Territory more particularly delineated in Appendix "C", attached hereto, restricted to the transportation of traffic moving to or from companies engaged in the aerospace industry and in the manufacture, processing and distribution of petroleum and petroleum products and chemicals and chemical supplies.

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 paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
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.

Issued by California Public Utilities Commission.

Decision No. 70841, Application No. 47394.

4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated 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.

End of Appendix A

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Decision No. 70841, Application No. 47394.

APPENDIX "C" TO DECISION NO. 70841

LOS ANGELES BASIN TERRITORY^{1/} 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 its intersection with the city limits of the City of Los Angeles; northerly and easterly along the city limits of the City of Los Angeles to its intersection with 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; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly along U. S. Highway 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; southwesterly 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 shore line of the Pacific Ocean to point of beginning.

^{1/} The territorial description differs from the territorial description of the Los Angeles Basin Territory as set forth in Item 270 of Minimum Rate Tariff No. 2, in that it additionally encompasses a small portion of the City of Los Angeles located in the northwest corner thereof, excluded from the tariff description.