

ORIGINAL

Decision No. 76439

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
STERLING TRANSIT COMPANY, INC., a )  
corporation, for an extension of )  
its Certificate of Public Convenience )  
and Necessity to operate as a highway )  
common carrier for the transportation )  
of property in intrastate and inter- )  
state and foreign commerce, and for )  
an In Lieu Certificate of Public )  
Convenience and Necessity therefor. )

Application No. 50002  
(Filed February 2, 1968)

Donald Murchison of Murchison, Stebbins & Davis for  
Sterling Transit Company, Inc., applicant.  
Arthur H. Glanz and Graham & James by Steven A. Wawxa,  
Boris H. Lakusta and Harnden R. Eyring for Walkup's  
Merchants Express, protestant.

O P I N I O N

By its application herein filed February 5, 1968, Sterling Transit Company, Inc., hereinafter sometimes called Sterling, seeks both a certificate of public convenience and necessity from this Commission and a certificate of registration from the Interstate Commerce Commission authorizing it to extend its operations so as to operate:

1. Between the San Francisco Territory, as described in Item 270-3 of California Minimum Rate Tariff No. 2, the Los Angeles Territory, as described in Item 270-3 of California Minimum Rate Tariff No. 2, the San Diego Area (described as San Diego, National City, Chula Vista, La Mesa, and El Cajon) and Sacramento, via any and all highways including the right to serve all points and places on and along and within 10 miles laterally of the following routes.

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- b. Junction State Highway No. 65 with U. S. Highway No. 99 (Interstate 5); north to junction State Highway No. 65 and State Highway No. 198; easterly along State Highway No. 198 to junction with State Highway No. 69; northerly along State Highway No. 69 to junction State Highway No. 63; westerly and southerly via State Highway No. 63 to Visalia; thence westerly along State Highway No. 198 to junction with U. S. Highway 99 (Interstate 5).

Applicant's request to extend its authority set forth above consists of an extension to serve that territory more commonly known as the "Porterville Loop". All other points and places which applicant requests be included in its in lieu certificate are presently authorized by Decision No. 59844, dated March 24, 1960, in Application No. 41727, with respect to intrastate operations; service to said points and places with respect to interstate operations and foreign commerce are authorized by Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC 97382 (Sub. No. 2), and as set forth in Exhibit No. 3 herein.

Sterling proposes to provide the service for which authorization is requested on an "on call" basis Monday through Saturday with Sundays and holidays excepted. Sterling proposes that the service will be overnight in character, i.e., shipments picked up one day normally will be delivered at the destination points on the proposed routes in the morning of the following day. However, service between Bakersfield and the City of Porterville and points south on State Highway 65 between Porterville and Bakersfield and points within ten miles laterally of said portion of State Highway 65 will be served on a "same day" basis.

Sterling is presently a party to all Western Motor Tariff Bureau, Inc., Agent, Tariff Publications as are necessary for publication of rates to cover Sterling's operating rights, both as to

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intrastate and interstate and foreign commerce operations. In connection with the proposed service Sterling proposes to establish rates substantially in conformity with rates and charges presently published in said tariffs.

The application was originally opposed by Walkup's Merchant's Express hereinafter sometimes called Merchants, and Pacific Motor Trucking Company. During the course of the hearing, the protest of Pacific Motor Trucking Company was withdrawn.

Hearings were held before Examiner Cline at Los Angeles on June 11 and 12, 1968 and March 25, 1969; at Bakersfield on September 18, 1968, and at Porterville on November 19, 1968. The matter was taken under submission upon the filing of concurrent briefs on July 21, 1969.

Sterling introduced testimony through two of its own officers and 19 shipper and/or receiver public witnesses. The protestant Merchants introduced evidence through its Vice-President in charge of sales, traffic and warehousing.

A notice of filing of application for publication in the Federal Register under Section 206(a)(6) of the Interstate Commerce Act, as amended was, forwarded to the Interstate Commerce Commission, Washington, D.C., on February 6, 1968. The Notice of Application was published in the Federal Register on February 21, 1968, at page 3253.

#### Issues

The ultimate issue in this proceeding is:

Does public convenience and necessity require the extension of service proposed by Sterling?

The subordinate issues (both as to intrastate and interstate and foreign commerce) which have also been raised by the parties are the following:

I Does Sterling have the fitness and ability to perform the proposed service?

II Is there a public need for the proposed additional service?

- A. From the Los Angeles area to points on the Porterville Loop?
  - 1. Are existing services inadequate to meet the public need?
  - 2. Are shipper needs too sporadic to justify an additional common carrier service?
  - 3. Is shipper preference or convenience sufficient to support the issuance of a certificate of public convenience and necessity?
- B. From Bakersfield to points on the Porterville Loop?
  - 1. Are shipper needs satisfied by proprietary hauling?
  - 2. Are existing services inadequate to meet the public need?
  - 3. Are shipper needs sufficient to support the issuance of a certificate?
    - a. Are shipper needs for common carrier service limited to infrequent emergency service?
    - b. Is the shipper need for Saturday service only?
- C. From points in the San Francisco Bay Area to points on the Porterville Loop?
  - 1. Are existing services inadequate to meet the public need?
- D. From other points within Sterling's certificated area to points on the Porterville Loop?
  - 1. Are existing services inadequate to meet the public need?
- E. From points on the Porterville Loop to other points on the Loop?
  - 1. Are existing services inadequate to meet the public need?

F. From points on the Porterville Loop to points within the State?

1. Are existing services inadequate to meet the public need?

G. From points on the Porterville Loop to points in other states?

1. Are existing services inadequate to meet the public need?

III Can this Commission grant Sterling authority to operate in interstate commerce in this proceeding?

IV Would the granting of the requested additional rights to Sterling dilute available traffic and impair the ability of existing carriers to serve on an economic basis in the absence of a rate increase which would be contrary to the interest of the public?

V Would the public benefit by a denial of the application?

VI Has Merchant's evidence failed to rebut the showing of need for the service proposed?

Based on a consideration of the record with respect to the foregoing issues the Commission makes the following findings of fact:

I Does Sterling have the fitness and ability to perform the proposed service?

A. Present Operations of Sterling.

1. Sterling is a family (Thorkildsen) corporation engaged in certificated operations as a highway common carrier for the transportation of general commodities with the usual exceptions, both in intrastate and foreign commerce, pursuant to Decision No. 59844 issued March 24, 1960, in Application No. 41727 between the points and places set forth in paragraph IV of the application herein.

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2. Sterling also operates as a permitted carrier under the Public Utilities Code and holds the following permits:

Radial Highway Common Carrier Permit No. 19-31030  
Highway Contract Carrier Permit No. 19-31031

3. Sterling was incorporated in 1947 and its Vice President in charge of operations has been connected with the corporation and its predecessor for approximately 33 years.

4. Exhibit No. 3, Certificate of Registration, No. MC 97382 (Sub No. 2) sets forth Sterling's authority from the Interstate Commerce Commission to operate as a common carrier by motor vehicle in interstate and foreign commerce.

5. Under Sterling's present operations, service is being performed to a limited degree into the Porterville Loop area, located north of Bakersfield on State Highways 63, 65, and 69 hereinafter called the Loop area, under Sterlings permitted authority issued by this Commission and by way of interline agreements with other existing highway common carriers authorized to serve the area.

6. Sterling conducts regular pickup runs in the Los Angeles, San Francisco, Sacramento and San Diego areas for such intrastate and interstate traffic as may be destined to all points and places in its authorized service territory and, at the same time, performs such regular pickup and delivery runs in said areas for such traffic as may be destined to or from consignees located in the Loop area.

7. Points north of Exeter in the Loop area are served out of Sterling's Fresno Terminal, and Exeter and points south thereof are served out of its Bakersfield Terminal.

8. Sterling's present service to Loop area points by way of interline arrangement with Pacific Motor Trucking Company hereinafter called PMT, is performed on a second day service arrangement.

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9. All shipments carried by Sterling now arriving at Bakersfield for interline with FMT and destined to the Loop area points are held over by FMT until the following day and then they go out for delivery.

10. The same type of service applies with respect to shipments in the Loop area north of Exeter which are presently served out of the Fresno Terminal.

11. Exhibits 10 through 14 herein show the joint through rates by Sterling with other appropriate carriers, both on intrastate and interstate traffic into the Loop area.

12. Sterling has interchange rates with FMT only at Bakersfield and FMT refuses the interchange of freight to points north of Porterville.

13. To effect joint common authority delivery of freight to points in the Loop area north of Porterville, Sterling must forward the freight to the Fresno Terminal for further interchange with FMTC, FMTT or Associated Freight Lines which results in a long haul for a short haul rate and extends the time of the shipment in transit.

14. The finding 13 above applies with respect to interstate shipments destined to points north of Porterville in the Loop area.

15. Merchants has refused to enter into interline arrangements or joint through rates arrangements with Sterling for service to the Loop area.

B. Sterling's Proposed Operations.

16. A grant of authority for Sterling to extend its common carrier service to the Loop area would permit Sterling to provide a direct single line overnight through service on shipments to the

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points in said area and would enable Sterling's customers to ship under master bills and to make split delivery shipments.

17. Most of Sterling's interstate shipments destined to points in the Loop area originate at its Montebello and San Leandro Terminals, and the same benefit in service and rates would be afforded the consignees of such interstate shipments if interstate authority is also granted.

18. Sterling proposes a Saturday service to the Loop area both out of its Bakersfield and its Fresno Terminals if the requested authority is granted.

C. Sterling's Physical Fitness and Ability.

19. Sterling owns and maintains a modern up-to-date terminal, consisting of three acres of surfaced area at Bakersfield along U.S. Highway 99 near Pierce Road, which has a two-way truckbed-high dock approximately 45' x 65' with 15 loading bays for trucks, and garage and shop facilities.

20. Sterling's main terminal is located at Montebello, California, and consists of some five acres at 853 South Maple which is enclosed and surfaced and possesses a two-way truckbed-high dock approximately 180' x 50', modern offices, garage and major repair shop facilities.

21. Sterling owns a third terminal located at 1717 Aurora Drive, San Leandro, California, covering some three and one-half acres and possessing a two-way 60' x 160' truckbed-high dock, garage and shop facilities.

22. At San Jose, California, Sterling leases a two acre terminal facility, including a 40' x 80' dock with twelve loading bays.

23. Other terminals used by Sterling to generate freight are located at Fresno, Manteca and San Diego.



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24. Sterling is building a new terminal at Sunnyvale, California, covering approximately three and one-third acres and including a modern office building, garage, major repair and maintenance shop facilities and a 60' x 100' truckbed-high two-way dock servicing some twenty rigs for loading and unloading at one time.

25. Sterling has a two-way radio dispatch system at the Montebello, San Jose and San Leandro terminals, and will also install such a system at the new Sunnyvale terminal upon its completion.

26. In its operations Sterling employs 29 administrative personnel, 12 dispatchers, 11 salesmen, 40 office employees and 248 drivers and dock personnel, making a total of 340 employees.

27. Sterling employs two safety men who go from terminal to terminal working on safety programs.

28. Sterling has 113 tractors of which 50 are radio dispatched, 61 radio-dispatched bobtails of which 35 have tailgate lifts, 172 trailers of which 20 are flatracks and 152 are vans, and 46 gears.

29. Sterling anticipates no need for additional equipment in the event the requested authority to extend its operations is granted to it; however, Sterling will obtain such additional equipment as may be required to meet the demands of its shipping/receiving public.

D. Sterling's Financial Fitness and Ability.

30. As of March 31, 1968 Sterling had total assets of \$2,646,812.30, liabilities of \$1,634,802.64 and capital and surplus of \$1,012,009.66.

31. For the three months period ended March 31, 1968, Sterling had net operating revenue of \$29,567.32.

32. The three months January, February and March are slow months and are the least profitable during the year.

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33. Sterling's operating revenues have been steadily increasing from year to year.

E. General Finding.

34. Sterling has the fitness and ability to perform the service proposed in its application herein.

II Is there a Public Need for the Proposed Additional Service?

A. Synkoloid Co., Los Angeles.

35. Synkoloid Co. ships paints from Los Angeles to Porterville, Lindsay, Exeter and Woodlake, points located in the Porterville Loop area, approximately two times per week.

36. Such shipments range in weight from 2,000 to 4,000 pounds.

37. Synkoloid requires daily overnight and Saturday service, makes split delivery shipments, and desires a single-line through service into the Loop area.

38. Merchants service to Synkoloid Co. has been undependable, as either Merchants doesn't come on time to pick up orders or it doesn't show up at all.

39. FMT's service to Synkoloid has been undependable.

40. Synkoloid's business in the Loop area has grown between 10 and 15 percent the last two or three years.

41. Synkoloid has found Sterling's service to be good and it would continue to use Sterling if the requested authority is granted.

42. Sterling makes a regular daily pickup from Synkoloid between 2:30 and 4:30 p.m.

43. Synkoloid has given Sterling a master bill for deliveries to Porterville and San Francisco when the customers haven't been in a rush.

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44. When the customers at Porterville have been in a rush the shipments have been given to Merchants or FMT.

B. American Machine & Foundry, Glendale.

45. American Machine & Foundry which is located in Glendale, produces bowling products, including balls, bags and shoes and has shipments of these items to Porterville, Lindsay, Exeter and Woodlake two to three times per week.

46. The average weight of such shipments is 100 to 300 pounds.

47. This shipper requires overnight service, needs a daily pickup and requires a single-line through movement.

48. The last time this company called Merchants for a pickup it took three phone calls and three days to get service.

49. CME provides second morning service for American Machine & Foundry into the Loop area.

C. Citizens Warehouse Company, Los Angeles.

50. Citizens Warehouse Company ships general commodities with the usual exceptions from Los Angeles to Porterville, Lindsay, Exeter and Woodlake two to three times per week.

51. Such shipments weigh approximately 200 pounds each.

52. This shipper requires overnight service and daily pickups and wants a single-line through service.

53. There have been occasions when Merchants didn't come in to serve this shipper when called.

54. Citizens Warehouse Company prefers to have Sterling serve it because of the regular daily pickup and because Sterling furnishes good service.

55. It has been at least a year since any salesman from FMT has called upon Citizens Warehouse Company.

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D. Williamson Dickie Manufacturing Company, City of Commerce.

56. Williamson Dickie Manufacturing Company which is located in the City of Commerce, ships casual and work clothes approximately once per week to Porterville, Exeter, Lindsay, Strathmore and every town along the Loop.

57. The average weight of each such individual shipment is 100 to 150 pounds.

58. This company has been using Sterling exclusively for about a year and has found its service to be very good.

59. This company has found that its business in the Porterville Loop area has been increasing.

E. Midland Screw Corporation, Los Angeles.

60. Midland Screw Corporation which is located in Los Angeles, ships treated fasteners at least one to two times per week to Porterville.

61. The shipments average in weight from 100 to 500 pounds.

62. This shipper desires an overnight service but the interlining arrangements of Sterling afford second morning delivery which is not convenient for its need; otherwise the shipper has found Sterling's service to be good.

63. This shipper's business has grown in the past three or four years.

64. Other common carriers have not solicited shipments from Midland Screw Corporation to Porterville within the past two years.

F. PPG Industries, Torrance.

65. PPG Industries which is located in Torrance ships coatings and paints from its place of business to Porterville, once monthly, with the shipments averaging from 500 to 2,000 pounds.

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66. This shipper needs an overnight service and wants a single-line through service.

67. This shipper uses Sterling and has received no complaints regarding its service.

68. Other common carriers have not solicited shipments to Porterville from PPG Industries.

G. C. A. Reed Company, Hawthorne.

69. C. A. Reed Company which is located in Hawthorne ships paper specialties to Porterville, Lindsay, Woodlake and Exeter one to five times per week with the shipments averaging 150-200 pounds per shipment.

70. At present this shipper uses Sterling and the shipments to the Porterville Loop are for second morning delivery and beyond.

71. This shipper needs and desires daily pickups with overnight single-line through service.

72. Sterling's drivers are prompt and dependable.

73. C. A. Reed Company also ships by CME, but once CME has made a pickup it will not return for a second pickup the same day.

74. This shipper's business has increased 25 percent in the last two to three years and it anticipates further growth in the future.

75. CME affords this shipper overnight service which has been satisfactory.

H. Pensick Gordon, Incorporated, City of Commerce.

76. Pensick Gordon, Incorporated, which is located in the City of Commerce ships toys to Porterville, Lindsay, Exeter and Woodlake at least once a week to each of the cities.

77. Said shipments average around 200 pounds each.

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78. This shipper requires daily pickups with overnight deliveries and a single-line through service.

79. This shipper has used FMT and Valley-Copperstate but these carriers have been late in making pickups or have failed to make them on the day called.

80. Sterling provides this shipper with regular dependable pickups.

81. This shipper has given Sterling traffic to the Loop area that FMT or Valley-Copperstate has failed to pick up.

82. This shipper has not been solicited for shipments by Merchants, Delta or CME for five or six years.

83. Sterling has given this shipper good service both in pickups and deliveries.

I. San Joaquin Wholesale Distributor, Bakersfield.

84. San Joaquin Wholesale Distributor which is located in Bakersfield handles paints, sundries, building materials except lumber and cement, and tools and makes shipments of these items by carrier to all points in the Loop area on a daily basis with the shipments averaging 300 pounds or more.

85. This company uses Sterling for shipments to points other than those in the Loop area, and the service is dependable, the drivers are courteous and the company is satisfied with the service rendered by Sterling.

86. To points in the Loop area the company ships via Kern Valley, but the customers complain that the deliveries are late.

87. If this application is granted San Joaquin Wholesale Distributors will switch its traffic to the Loop points from Kern Valley to Sterling.

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88. Walkup's Merchants Express has never solicited business from San Joaquin Wholesale Distributors.

89. Although this company desires Saturday service it is unable to obtain such service from the carriers presently serving the Loop area.

90. This shipper has interstate shipments which originate in Illinois, Iowa, New Jersey and Louisiana, destined through its business operation to consignees located in the Loop area, and if the certificate is granted to Sterling the shipper would use the services of Sterling for interstate as well as intrastate shipments.

91. The shipper would like a direct service from Bakersfield to all the points in the Loop area.

J. West Chemical Products, Inc., Bakersfield.

92. West Chemical Products, Inc., which is located in Bakersfield deals in paper products, maintenance and janitorial chemicals and insecticides, and it ships to all points and places in the Loop area.

93. This shipper makes shipments out of Bakersfield, and also receives shipments out of the Bay Area under a master bill arrangement with Sterling which must be turned over to interline carriers for delivery in the Loop area.

94. This shipper has also used Sterling on direct shipments to the Loop area which are not under a master bill, and no complaints have been received from customers on such service.

95. The shipper desires overnight service and single-line through operation from the Bay Area, as well as service on Saturday.

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96. This shipper has had difficulties tracing and expediting shipments to the Loop area handled by FMT, CME and Ringsby out of Fresno, but it has found Sterling to be very good with respect to tracing shipments.

97. Its northbound shipments range from 30 pounds to 600 pounds, and it ships a total monthly tonnage of 10,000 pounds into the Loop area on a frequency of twice a week.

98. In the opinion of this shipper Walkup's Merchants facilities at Bakersfield are not adequate to meet its needs.

99. This shipper is satisfied with respect to nonrush shipments by Sterling, but not as to the interline arrangement with other carriers.

100. This shipper would use Sterling for the interstate shipment of machine repair parts which as a general rule would weigh less than 100 pounds.

K. Clark Equipment Co., Bakersfield.

101. Clark Equipment Co., which is located in Bakersfield, handles construction equipment, mining equipment, agricultural equipment and road-building machinery and has shipments of items to points in the Loop area which range in weight from a minimum of 5 or 10 pounds up to 1,000 pounds.

102. This shipper has never been solicited by FMT or Merchants Express, but it has used the services of Sterling and has found such service to be very good and to have met the emergency needs and requirements of its customers.

103. Clark Equipment Co. has used no other carrier than Sterling in the Loop area except Greyhound.



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104. This shipper has 15 to 20 interstate shipments per month going into the Loop area, and it requires the service of a carrier about four times a month to handle these shipments.

105. This shipper desires a daily overnight service from the Bay Area and from Bakersfield into the Loop area, instead of second morning delivery, and the shipper also desires service on Saturday.

L. Hopper, Incorporated, Bakersfield.

106. Hopper, Incorporated, which is located in Bakersfield, handles industrial supply items and hand tools, and has shipments from Bakersfield to all points on the Porterville Loop with an average frequency of three times a week including Saturday.

107. The shipments range from 100 pounds to 5,000 pounds per shipment.

108. This shipper requires overnight and Saturday service.

109. This shipper has used Sterling during the past 8 years.

110. PMT and Ringsby have indicated they did not provide the service required by Hopper.

111. As Merchants failed to make deliveries at the time promised, Hopper stopped using Merchants.

112. This shipper moves interstate shipments through its plant in Bakersfield to the consignee or directly to the consignee once or twice a month, and it would use the services of Sterling for such shipments if Sterling were certificated in the interstate operation.

113. This shipper has had no difficulty in tracing shipments with Sterling, but it has had problems with regard to tracing shipments with other carriers.

114. This shipper cannot get Saturday service from other carriers.

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115. This shipper's business has grown 10 to 15 percent over the last two years and it anticipates further growth in the future.

M. S. A. Camp Pump Company, Cawelo.

116. S. A. Camp Pump Company which is located 12 miles north of Bakersfield at Cawelo handles all types of pumps, wind machines, sprinkler systems and engine rentals and ships from Cawelo approximately two times per week to points and places in the Loop area including off-the-road deliveries to ranches.

117. This shipper has used Sterling for the past three years and its service has been very good.

118. This shipper needs overnight and Saturday service.

119. The shipper's business has doubled in the past three or four years.

120. This shipper has shipments that move in interstate commerce into the Loop area two or three times a week, and if Sterling were authorized to handle interstate shipments Camp Pump would use Sterling for such shipments.

121. This shipper has been unable to obtain Saturday service from FMT or Kern Valley.

122. This shipper has had good results with tracing service for problems with Sterling compared to the tracing service for problems with other carriers.

N. Sherwin Williams Company, Bakersfield.

123. The Sherwin Williams Company located at Bakersfield deals in paints and varnishes, brushes, artists supplies and sundry other related items and ships to Porterville, Visalia, Tulare, Exeter, Lindsay, Strathmore, Orange Cove and a few of the other places in the Loop area one to three times a week with the average shipment weighing 400 to 600 pounds.

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124. This shipper has used Sterling for shipments into the Loop area and has found its service excellent and that it makes pickups promptly and dependably.

125. Merchants and Kern Valley have not solicited this shipper's business into the Loop areas.

126. This shipper requires daily pickups and Saturday service.

127. This shipper's Bakersfield branch has experienced a definite growth in business the last year and a half.

128. The condition of goods received by this shipper from Sterling is in better overall condition than those received from Merchants and other carriers.

O. Strathmore Ladder Works, Strathmore.

129. Strathmore Ladder Works which is located in Strathmore on the Porterville Loop deals in ladders and ships them from Strathmore to agricultural points in the Loop area and also to points in the Imperial Valley, Tulare County, Kern County, and Fresno County on a daily basis during the six months each year comprising the spring and fall seasons.

130. The shipments run from 8 to 10 tons per month and average 500 to 600 pounds per shipment.

131. This shipper requires deliveries to be made as quickly as possible, but the service proposed by Sterling would be satisfactory to it.

132. This shipper has used the services of CME, Santa Fe, PMT and Valley and has experienced difficulties with these carriers because of delayed deliveries and delayed pickups.

133. The present service rendered to this shipper by Sterling outside the Porterville Loop area has been satisfactory.

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134. This shipper's business has grown between 30 and 35 percent over the past three years.

135. This shipper ships trellis braces to points in the State of Arizona four or five times a month during the spring and fall seasons with each shipment ranging from 4,000 to 10,000 pounds each, and there have been no complaints on the deliveries.

136. It would be convenient for this shipper to have one carrier able to handle all its shipments and to be able to make split-delivery shipments.

137. This shipper has not used Merchants because it has never been contacted by Merchants.

P. E. M. Thorpe, Inc., between Porterville and Tipton

138. E. M. Thorpe, Inc., which is located 12 miles east of Tipton and 7 miles west of Porterville deals in vehicles, a complete line of paints, tractors and tractor parts, diesel pumps, auto parts and tires and ships two to six times a week to points in the Loop area with its shipments ranging from 10 pounds to 2200 pounds each.

139. This shipper requires daily pickups, overnight service and Saturday service, and the proposed service of Sterling would be very helpful to and is needed by this shipper.

140. At present most all of this shipper's business is being handled by itself and its consignees.

141. Kern Valley handles some of the shipments to points out of the Loop area for this shipper, but the service of this carrier and the other carriers leaves something to be desired because there is no regular pickup service at the shipper's place of business.

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142. Three to five times a month this shipper has movements in interstate commerce to points such as El Paso, Dallas, Fort Worth, Denver, and Berne, Ohio, and into the State of Idaho, such shipments weighing from 15 pounds to 1500 pounds each.

143. This shipper's incoming shipments are handled by Valley PIE and PFL.

144. This shipper has not been solicited by Merchants.

145. This shipper has experienced difficulty with Valley in connection with tracing a shipment of tires coming to it from Los Angeles.

Q. Beckman Instruments, Porterville.

146. Beckman Instruments' plant at Porterville deals in electronic parts and subassemblies and ships from Porterville to the San Francisco Bay Area and the Los Angeles area on a daily basis with its shipments weighing 50 pounds to 250 pounds each.

147. This shipper selects the carrier for its outbound movements and for 80 percent of its inbound movements which have a frequency of 12 to 15 shipments a day and weigh an average of 100 pounds or 150 pounds each.

148. This shipper has used CME, Delta, Merchants and Ringsby on its outbound movements, and its difficulty with the pickup service of these carriers has been mainly with respect to the time of day.

149. Beckman Instruments has used Sterling on an infrequent basis and has found Sterling's service to be fine with no problem regarding pickups.

150. Beckman Instruments' business has grown approximately 50% in the last two years and its transportation needs have increased accordingly or proportionately; it anticipates further future growth of equal proportion.

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151. This shipper uses CME, Delta, Merchants and Ringsby on its interstate shipments from Porterville to Shore Park in the Chicago suburbs three or four times per month, such shipments weighing 200 to 300 pounds each.

152. If Sterling is granted its requested authority Beckman would still continue also using the other above named carriers, any diversion of traffic being dependent upon the type of service a particular carrier provides.

153. If this application is granted Beckman will use Sterling's service both for its intrastate and interstate shipments.

R. Blasingame Tire Service, Porterville.

154. The parties stipulated that the testimony regarding Blasingame Tire Service of Porterville which deals in tires, wheels and tire products would be substantially the same as the testimony regarding Strathmore Ladder Works, E. M. Thorpe, Inc., and Beckman Instruments, except that this shipper has no need for interstate service.

S. Boynton Bros., Porterville.

155. The parties also stipulated that the testimony regarding Boynton Bros. located in Porterville which deals in tires and wheels, would be substantially the same as the testimony regarding Strathmore Ladder Works, E. M. Thorpe, Inc., and Beckman Instruments, except that this shipper has no need for interstate service.

T. General Findings.

156. There is a public need for the proposed additional service from the Los Angeles area to points on the Porterville Loop as  
(1) existing services are inadequate to meet the public need,  
(2) shipper needs, preference and convenience justify an additional

common carrier service and support the issuance of the requested certificate of public convenience and necessity.

157. There is a public need for the proposed additional service from Bakersfield to points on the Porterville Loop as (1) the shipper needs are not satisfied by proprietary hauling, (2) existing services are not adequate to meet the public need, and (3) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

158. There is a public need for the proposed additional service from points in the San Francisco Bay Area to points on the Porterville Loop as (1) existing services are inadequate to meet the public need and (2) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

159. There is a public need for the proposed additional service from other points within Sterling's certificated area to points on the Porterville Loop as (1) the existing services are inadequate to meet the public need, and (2) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

160. There is a public need for the proposed additional service from points on the Porterville Loop to other points on the Loop as (1) the existing services are inadequate to meet the public need, and (2) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

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161. There is a public need for the proposed additional service from points on the Porterville Loop to points within the State as (1) the existing services are inadequate and (2) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

162. There is a public need for the proposed additional service from points on the Porterville Loop to points in other states as (1) the existing services are inadequate and (2) the shipper needs, preference and convenience justify an additional common carrier service and support the issuance of the requested certificate of public convenience and necessity.

III Findings based on a consideration of the evidence submitted by Merchants as related to the entire record in this proceeding.

163. Merchants has the authority to serve all the points on the Porterville Loop area along with its general operating rights for service within the State of California.

164. Merchants offers and provides daily intrastate and interstate transportation service between points in California including all the points covered by this application.

165. The Porterville Loop area is now being served not only by Merchants, but also by California Motor Express, Di Salvo Trucking Company, Delta Lines, Pacific Motor Trucking, Shippers Express, Southern California Freight Lines, System 99, Valley-Copperstate, and Willig Freight Lines, all of which are certificated common carriers.



A. 50002 Mjo

166. The granting of the requested additional authority to Sterling will not dilute available traffic and impair the ability of existing carriers to serve on an economic basis in the absence of a rate increase.

167. The public would not benefit by a denial of the application.

168. Merchants has failed to rebut the showing of need for the additional service proposed by Sterling.

#### IV Ultimate Finding.

169. Public convenience and necessity require the extension of service into the Porterville Loop area as proposed by Sterling and the issuance of the in lieu certificate as requested by Sterling authorizing Sterling to engage in intrastate, interstate and foreign commerce as specified in the order which follows.

#### V Conclusion.

The Commission concludes that the application should be granted as set forth in the ensuing order.

Sterling 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 Sterling Transit Company, Inc., 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 particularly set forth in Appendix A attached hereto and hereby made a part hereof.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of general commodities with exceptions heretofore granted to or acquired by Sterling Transit Company, Inc., and presently possessed by it, which certificates are superseded effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, 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-E.

- (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 its 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 its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1969.

William J. Lyons, Jr.  
President

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James L. Sturgeon  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate -27- in the disposition of this proceeding.

Sterling Transit Company, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport in intrastate, interstate and foreign commerce the following named property:

A. GENERAL COMMODITIES, EXCEPT:

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.
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 semi-trailers 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.

Issued by California Public Utilities Commission.

Decision No. 76439, Application No. 50002.

## B. BETWEEN:

1. Between the San Francisco Territory, as described in Item 270-3 of California Minimum Rate Tariff No. 2, the Los Angeles Territory, as described in Item 270-3 of California Minimum Rate Tariff No. 2, the San Diego Area (described as San Diego, National City, Chula Vista, La Mesa, and El Cajon) and Sacramento, via any and all highways including the right to serve all points and places on and along and within 10 miles laterally of the following routes:
  - a. U. S. Highway No. 99 between Los Angeles and Sacramento.
  - b. Junction State Highway No. 65 with U. S. Highway No. 99 (Interstate 5); north to junction State Highway No. 65 and State Highway No. 198; easterly along State Highway No. 198 to junction with State Highway No. 69; northerly along State Highway No. 69 to junction State Highway No. 63; westerly and southerly via State Highway No. 63 to Visalia; thence westerly along State Highway No. 198 to junction with U. S. Highway No. 99 (Interstate 5).
  - c. U. S. Highways Nos. 40 and 50 and State Highways Nos. 24 and 4 between San Francisco and Sacramento.
  - d. State Highways Nos. 41 and 198 between the Lemoore Naval Air Station and the junction of said highways with U. S. Highway No. 99.
2. Between all points and places named in Paragraph 1 hereof, on the one hand, and, on the other hand, all points and places on, along and within 3 miles laterally of the following routes:
  - a. U. S. Highway No. 66 between Los Angeles and San Bernardino.
  - b. U. S. Highways Nos. 60, 70, and 99 between Los Angeles and Redlands.

Issued by California Public Utilities Commission.

Decision No. 76439, Application No. 50002.

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Appendix A

Sterling Transit Company, Inc. Original Page 3

- c. U. S. Highway No. 60 between Los Angeles and Riverside.
  - d. U. S. Highways Nos. 101, and 101 By-Pass between Los Angeles and Santa Ana.
  - e. State Highway No. 18, U. S. Highways Nos. 91 and 395 between Los Angeles and Colton.
3. Between the Los Angeles Territory and the San Diego Area, on the one hand, and El Centro, and points within twenty-five miles of El Centro, on the other hand, via U. S. Highways Nos. 80, 60 and 99.

Issued by California Public Utilities Commission.

Decision No. 76439, Application No. 50002.