

Decision No. 78466

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of Shippers Express Company, a)
 California corporation, for an)
 order amending its certificate)
 of public convenience and)
 necessity to exclude the trans-)
 portation of certain commodities.)

Application No. 52439
 (Filed February 9, 1971)

O P I N I O N

Shippers Express Company^{1/} requests that its certificated authority granted by Decision No. 59859, dated March 29, 1960, in Application No. 41565 and as amended by Decision No. 60118 be further amended by excluding therefrom the transportation of the following commodities:

1. Metal cans or can tops, bottoms or ends.
2. Aluminum electric cable, with or without steel core.
3. Fresh or green fruits or fresh or green vegetables from fields or point of growth consigned to cold storage plants, precooling plants, canneries, accumulation stations, packing sheds, packing houses or other processing facilities.
4. Citrus fruits, and empty containers.
5. Fresh berries.
6. Nuts, field shelled or rough shelled.

Shippers Express Company recently acquired the certificated authority of Encinal Terminals which contains restrictions against the transportation of said commodities. It is alleged that Encinal Terminals had transported said commodities pursuant to its permits and as a result established firm customer relations, which Shippers

^{1/} The corporate name has recently been changed to Shippers Encinal Express, Inc.

Express Company desires to continue without violating Section 3542 of the Public Utilities Code. It is further alleged that all of its commodities for which exceptions are sought are ones which have either never been carried by Shippers Express Company, or which have not been carried for many years.

After consideration the Commission finds that the proposed exclusions would not be adverse to the public interest. A public hearing is not necessary. The application will be granted by revoking all of Shippers Express Company's existing certificated authority and issuing an in-lieu certificate in appendix form in the new corporate name.

Shippers Encinal Express, Inc. 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 Shippers Encinal Express, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes

particularly set forth in Appendices A, B, C, D, E, F and G attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. 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-F.
- (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 two days after the effective date of this order on not less than two 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.

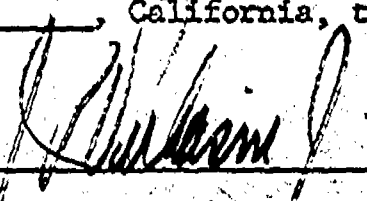
(f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificates of public convenience and necessity granted by Decisions Nos. 59859, 60118, 70124, 66325, 65331, 62493 and 60547, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

4. Whenever Shippers Encinal Express, Inc. engages other carriers for the transportation of property of Del Monte Corporation, Alaska Packers Association or California Packing Corporation or their subsidiaries, divisions, or affiliates thereof or customers or suppliers of said corporations or subsidiaries, divisions or affiliates thereof, Shippers Encinal Express, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Shippers Encinal Express, Inc.'s tariffs on file with this Commission.

The effective date of this order shall be the date hereof.


Dated at San Francisco, California, this 23rd day of MARCH, 1971.



Chairman




Commissioners



Commissioners

Shippers Encinal Express, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

1. Between all points and places as described in Appendix B.

2. Between all points and places on and within 10 miles laterally of U.S. Highway 40 between the northerly boundary of the San Francisco-East Bay Cartage Zone, as defined in paragraph 1 of Appendix B and Sacramento, inclusive including the off-route point of Travis Air Force Base.

3. Between all points and places on and within 10 miles laterally of State Highway 4 beginning with its intersection with U.S. Highway 40 extending to Antioch.

4. Between all points and places on and within 3 miles laterally of State Highway 4 beginning at Antioch to Stockton, inclusive.

5. Between all points and places and within 10 miles laterally of State Highway 24 beginning at Oakland and extending to its intersection with State Highway 4.

6. All points and places on and within 3 miles laterally of U.S. Highway 50 between the easterly boundary of the said San Francisco-East Bay Cartage Zone and Stockton, inclusive.

7. All points and places on and within 3 miles laterally of U.S. Highway 99 between Sacramento and Manteca.

8. All points and places on and within 3 miles laterally of State Highway 29 between its junction with U.S. Highway 40 at Vallejo and Napa, inclusive.

9. Between all points and places within 10 miles of Stockton.

10. Between all points and places within 20 miles of Sacramento.

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11. Between all points and places in paragraphs 1 through 10 above.

12. Between all points and places in paragraphs 1 through 10 above and the Santa Clara Valley Territory as described in Appendix C on the one hand, and, on the other hand:

- a. All points and places on U.S. Highways 101 and 101-A and State Highway 118, to and including the Los Angeles Territory, the Los Angeles Basin Territory, and the San Diego Territory, as described in Appendices E and F, including all intermediate points and the off-route point of Vandenberg Air Force Base and all points and places within ten miles laterally of said highways.
- b. All points and places on U.S. Highway 99, including Manteca, Modesto, Fresno, Bakersfield, and all intermediate points thereto, to and including the Los Angeles Territory, the Los Angeles Basin Territory, and the San Diego Territory, and all points intermediate thereto, and all points and places within ten miles laterally of said highways.
- c. The foregoing service shall be subject to the restriction that points and places on U.S. Highways 101, 101-A, and State Highway 18 between Gilroy, but not including Gilroy, and the north and northeastern boundary of the Los Angeles Basin Territory, be subject to split-pickup and split-delivery service.
- d. Service in the above-described territories may be performed over any and all highways.

13. Between the Los Angeles Territory and the Los Angeles Basin Territory, on the one hand, and, on the other hand:

- a. All points and places in the San Diego Territory, including all intermediate points on U.S. Highways 395, 101 and 101-A, and all points and places within ten miles laterally of said highways.
- b. Service in the above-described territories may be performed over any and all highways.

14. Between all points and places in the Los Angeles Territory, the Los Angeles Basin Territory, and the San Diego Territory, as described herein, and all intermediate points via U.S. Highways

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395, 101 and 101-A, on the one hand, and, on the other hand:

- a. All points and places on U.S. Highway 99, including Bakersfield, Fresno, Modesto, Manteca, Stockton and Sacramento and all intermediate points including a twenty-mile radius of Sacramento, and all points and places within ten miles laterally of said highway.
- b. All points and places on State Highway 120 and U.S. Highway 50, beginning with the intersection of said highways and U.S. Highway 99 at Manteca and extending to and including the points in Appendix B, and all points and places within ten miles laterally of said highways.
- c. All points and places on State Highway 152 between Califa and Gilroy, all points and places on U.S. Highway 40 between Oakland and Sacramento, and all points within ten miles laterally of said highway.
- d. All points and places on State Highway 4 beginning with its intersection with U.S. Highway 40 and extending to and including Antioch and all points and places within ten miles laterally thereof.
- e. All points and places on State Highway 24 between Oakland and its intersection with State Highway 4 and all points and places within ten miles laterally thereof.
- f. All points and places on U.S. Highways 101, 101-A, and State Highway 118, including the off-route point of Vandenberg Air Force Base, to and including the Santa Clara Valley Territory and the points in Appendix B, and all off-route points within ten miles laterally of said highways.
- g. The above service is subject to the restriction that points and places on U.S. Highways 101, 101-A, and State Highway 118, be subject to split-pickup and split-delivery service between Gilroy, but not including Gilroy, and the north and northeastern boundary of the Los Angeles Basin Territory.
- h. Service in the above-described territories may be performed over any and all highways.

(END OF APPENDIX A)

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1. The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to So. Mayfair Avenue; thence westerly along said So. Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U.S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U.S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U.S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek, thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northwesterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland, thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U.S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U.S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U.S. 40; thence northerly along Highway U.S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue;

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thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

2. Between San Mateo and San Jose and intermediate points on U.S. Highways 101 and 101 By-Pass, between Hayward and San Jose and intermediate points on State Highways 9 and 17, and between all points laterally within 5 miles of said highways and all points and places within a radius of 10 miles of San Jose.

3. Service to be performed between certificated points via any and all available streets and highways including all connecting streets and highways.

(END OF APPENDIX B)

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SANTA CLARA VALLEY TERRITORY - All of the territory within the limits of the following cities and towns: San Jose, Palo Alto, Mountain View, Los Altos, Sunnyvale, Cupertino, Monte Vista, Permanente, Saratoga, Los Gatos, Campbell, Santa Clara, Agnew, Alviso, Milpitas, Madrone, Morgan Hill, San Martin, Gilroy, Old Gilroy, and all territory in Santa Clara County within a distance of five miles on either side of the following roads and highways;

U.S. Highway 101 By-pass between East Palo Alto and San Jose,

U.W. Highway 101 between Palo Alto and Gilroy, Sunnyvale-Saratoga Road,

Stevens Creek Road and Permanente Road between Cupertino and Permanente,

Saratoga-Los Gatos Road and Santa Clara-Los Gatos Road between Los Gatos and Santa Clara,

Santa Clara-Alviso Road,

Alviso Road between Alviso and Milpitas,

State Highway 17 between Milpitas and San Jose,

Pacheco Pass Road between Gilroy and Old Gilroy.

(END OF APPENDIX C)

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LOS ANGELES TERRITORY includes the area embraced by the following boundary:

Beginning at the intersection of Sunset Boulevard and U.S. Highway 101, Alternate; thence northeasterly along Sunset Boulevard to State Highway 7; northerly along State Highway 7 to State Highway 118; northeasterly along State Highway 118 through and including 118; northeasterly along State Highway 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway 118 to and including the City of Pasadena; easterly along State Highway 66 to State Highway 19; southerly along State Highway 19 to its intersection with U.S. Highway 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 101, Alternate; thence northerly along an imaginary line to point of beginning.

(END OF APPENDIX D)

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LOS ANGELES BASIN TERRITORY includes the 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 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99; northwesterly along U.S. Highway 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; southwestwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60; southwestwesterly along U.S. Highways 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 74; westerly along State Highway 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; southwestwesterly 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 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 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; northwestwesterly along the shore line of the Pacific Ocean to point of beginning.

(END OF APPENDIX E)

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SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101-E and 101-W (4 miles north of La Jolla); thence easterly to Miramar on State Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning.

(END OF APPENDIX F)

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Shippers Encinal Express, Inc., a corporation, shall not transport any shipments of:

1. A. Uncrated used household goods and personal effects and office, store and institution furniture, fixtures and equipment.

B. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sow, steers, stags or swine.

C. Articles of extraordinary or unusual value.

D. Metal can or can tops, bottoms or ends.

E. Aluminum electric cable, with or without steel core.

F. Petroleum products in bulk in tank vessels.

G. Fresh or green fruits or fresh or green vegetables from fields or point of growth consigned to cold storage plants, pre-cooling plants, canneries, accumulation stations, packing sheds, packing houses or other processing facilities.

H. Nuts, field shelled or rough shelled.

For the purpose of subparagraph G above, the following definitions will apply:

- (1) Cold Storage Plant: Facilities maintained for the storage of commodities under refrigeration.
- (2) Precooling Plant: Facilities maintained for the purpose of precooling commodities for shipment under refrigeration.
- (3) Cannery: Facilities maintained for the processing of commodities at which the commodities are canned, preserved, dried, frozen, pickled, brined, or otherwise processed into manufactured products.
- (4) Accumulation Station: Yards or open areas maintained for the receiving of unprocessed commodities from the field, and accumulation and consolidation of such commodities for shipment to a cannery, winery, cold storage plant or precooling plant.

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- (5) Packing Shed or Packing Plant: Facilities maintained for assembling, sorting, grading, or packing the commodity for shipment.

II. Between all points and places described in paragraphs 12, 13, and 14 of Appendix A.

- A. 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.
- B. 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.
- C. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- D. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

For the purposes of II above, the restrictions do not apply to the points and places described in paragraphs 1 through 10.

(END OF APPENDIX G)

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