

Decision No. 80506

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
MODERN TRANSPORTATION, INC., for a )  
certificate of public convenience )  
and necessity authorizing the )  
transportation, as a highway common )  
carrier, of specified commodities )  
between various points within )  
California. )

Application No. 53469  
(Filed July 20, 1972)

O P I N I O N

Modern Transportation, Inc., a California corporation, requests a certificate of public convenience and necessity authorizing operations as a highway common carrier as follows:

- a. Fresh fruits and vegetables from points in Santa Cruz, Santa Clara, Monterey, Alameda, and San Benito Counties to points in the Los Angeles Basin Territory, via State Highway 17, State Highway 1, U. S. Highway 101, State Highway 152, and Interstate Highway 5.
- b. Chemicals, dairy products and adhesives from Los Angeles to points in the San Francisco Territory, via U. S. Highway 101, State Highway 152, Interstate Highway 5, State Highway 99, State Highway 120, U. S. Highway 50, and State Highway 17.
- c. Food and foodstuffs, in movements requiring temperature control, from San Jose to points in the Los Angeles Basin Territory, via U. S. Highway 101, State Highway 152, Interstate Highway 5, State Highway 99, State Highway 120, U. S. Highway 50 and State Highway 17.
- d. Beer, from San Jose to San Diego, and empty beer bottles, from San Diego to San Jose, via U. S. Highway 101, State Highway 152, Interstate Highway 5, State Highway 99, State Highway 120, U. S. Highway 50, and State Highway 17.

Applicant is presently engaged in the transportation of property pursuant to highway contract carrier and radial highway common carrier permits duly issued by this Commission.

The proposed service would be daily and time-in-transit would be same day or overnight, depending upon the time of day requests for service are received and pickups can be afforded and the length of the involved hauls. The proposed rates would be on the same level as those set forth in Minimum Rate Tariff 2.

Applicant operates 30 units of equipment and as of March 31, 1972, indicated a net worth in the amount of \$44,997.

It is alleged that as a result of a recent survey of applicant's transportation records and operations, a field investigator of the Commission was of the opinion that the applicant may be operating beyond the scope of its permitted authority and should consider applying for a highway common carrier certificate; that this opinion was confirmed at an advisory conference with members of the Commission's staff; that the granting of the certificate would permit applicant to continue serving its customers; that applicant has been serving many of its customers for the past twelve years; and the long period for which it has been serving these shippers clearly support a finding that public convenience and necessity require the granting of the authority sought.

Copies of the application were served upon the carriers with which the proposed service might compete. No protest has been received.

After consideration, the Commission finds that public convenience and necessity require the granting of the application. A public hearing is not necessary.

Modern Transportation, 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 ..

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 Modern Transportation, 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 Appendix A 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 to do so 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-Series.
  - (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-Series.

- (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.

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

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1972.

William L. Sturgeon  
President  
William L. Sturgeon  
William L. Sturgeon  
William L. Sturgeon  
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

I dissent:  
See dissent  
Thompson Bros.  
D.79860 (3/28/72)  
William L. Sturgeon

Modern Transportation, Inc. 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 specified commodities as follows:

- I. Fresh fruits and vegetables from points in the Counties of Santa Cruz, Santa Clara, Monterey, Alameda and San Benito, to points in the Los Angeles Basin Territory, as described in Note A, via State Highways 1, 17 and 152, U. S. Highway 101 and Interstate Highway 5.
- II. Chemicals, dairy products and adhesives from Los Angeles to points in the San Francisco Territory, as described in Note B, via State Highways 17, 99, 120 and 152, U. S. Highways 50 and 101, and Interstate Highway 5.
- III. Food and foodstuffs, in movements requiring temperature control, from San Jose to points in the Los Angeles Basin Territory, as described in Note A, via State Highways 17, 99, 120 and 152, U. S. Highways 50 and 101 and Interstate Highway 5.
- IV. Beer, from San Jose to San Diego, and empty beer bottles, from San Diego to San Jose, via State Highways 17, 99, 120 and 152, U. S. Highways 50 and 101 and Interstate Highway 5.
- V. In performing the service herein authorized, carrier may use any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Issued by California Public Utilities Commission.

Decision No. 80506, Application No. 53469.

Note A

## LOS ANGELES BASIN TERRITORY

The Los Angeles Basin Territory is described as follows: 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 of the City of San Fernando to Maclay Avenue; northeasterly along Maclay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U. S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U. S. Highway 395; southerly 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; northwesterly along the shoreline of the Pacific Ocean to the point of beginning, including the point of March Air Force Base.

Issued by California Public Utilities Commission.

Decision No. **80506**, Application No. 53469.

Note B

## SAN FRANCISCO TERRITORY

The San Francisco Territory is described as follows: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point 1 mile west of State Highway 82; southerly along an imaginary line 1 mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue

Issued by California Public Utilities Commission.

Decision No. 80506, Application No. 53469.

to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 80506, Application No. 53469.