

Decision No. 81094

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of WILLIG FREIGHT LINES,
a California 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 interstate and
foreign commerce.

Application No. 53457
(Filed July 17, 1972)

O P I N I O N

Applicant Willig is a California corporation engaged in intrastate commerce as a highway common carrier of general commodities, with the usual exceptions, pursuant to certificates of public convenience and necessity granted by the Commission in Decisions Nos. 59397 (in Application No. 41312) and 62051 (in Application No. 42044). In addition, it transports the same commodities in interstate and foreign commerce between the same points wholly within the State of California under authority issued by the Interstate Commerce Commission in Docket No. MC-48632 (Sub. No. 13).

Its present certificated territory includes the San Francisco Territory, Los Angeles Basin Territory, the Delta, and territory along coast and valley routes with extensions north to Fort Bragg, and south, including the San Bernardino and San Diego areas, to the Mexican border. Applicant also operates as a radial highway common carrier and a contract carrier under permits issued by this Commission.

Applicant originally sought extensive additions to its highway common carrier authority, together with a finding that public convenience and necessity required it to be authorized to operate in the same territory in interstate and foreign commerce (cf. 49 U.S.C. Sec. 306(a)(6)).

The additional rights originally sought were described as:

"(A) From, to and between all points and places located: On or laterally within 25 miles of the following named highways:

- (1) State Highway Number 1 between San Francisco and Carmel inclusive;
- (2) U. S. Highway Number 101 between San Francisco and Los Angeles Basin Territory as described in Note 2 hereof, inclusive;
- (3) Interstate Highway Number 5 between Weed and San Diego inclusive;
- (4) State Highway Number 99 between Weed and Los Angeles Basin Territory inclusive;
- (5) Interstate Highway Number 80 between San Francisco Territory as described in Note 1 hereof and Sacramento inclusive;
- (6) State Highway Number 65 between Roseville and Marysville inclusive;
- (7) Interstate Highway Number 580 between Oakland and Stockton inclusive;

- (8) Interstate Highway Number 15 between San Bernardino and San Diego inclusive;
 - (9) Interstate Highway Number 10 between Los Angeles and Indio inclusive;
 - (10) State Highway Number 111 between Indio and El Centro inclusive;
- "(B) On or laterally within 5 miles of State Highway Number 128 between Geyserville and Napa inclusive;
- "(C) On U. S. Highway Number 101 between Cloverdale and Willits inclusive."

Appropriate notice of the interstate and foreign commerce aspect of the proceeding was published in the Federal Register of September 27, 1972.

Protests were filed by Associated Freight Lines, Delta Lines, Inc., Applegate Drayage Company, Nielsen Freight Lines, System 99, Imperial Truck Lines, Inc., and Pacific Motor Trucking Company.

Protestant, Delta Lines, Inc. filed a motion to make the Commission staff a party to the proceeding and to require an investigation to determine the effect that the granting of the application would have on the public interest. Applicant responded to the motion, opposing participation by the staff and the requested investigation.

On December 1, 1972 applicant filed its first amendment to the application which reduced the scope of the proposed authority. Subsequent to the amendment all of the protests were withdrawn and the application, as amended, may now be considered as an ex parte matter.

The application, as amended, seeks authority to operate as a highway common carrier of all commodities with the customary exceptions:

"(A) On or laterally within 25 miles of the following named highways:

- (1) State Highway Number 1 between San Francisco and Carmel inclusive;
- (2) U. S. Highway Number 101 between San Francisco and Los Angeles Basin Territory as described in Note 2 hereof, inclusive;
- (3) State Highway Number 99 between Yuba City and Los Angeles Basin Territory as described in Note 2 hereof inclusive, except for that portion of State Highway Number 99 between Wheeler Ridge and Castaic, there shall be no lateral;
- (4) Interstate Highway Number 15 between San Bernardino and San Diego inclusive;

"(B) On or laterally within 20 miles of the following named highways:

- (1) State Highway Number 65 between Roseville and Marysville;

"(C) On or laterally within 10 miles of the following named highways:

- (1) Interstate Highway Number 5 between Sacramento and Los Angeles Basin Territory as described in Note 2 hereof inclusive, except for that portion of Interstate Highway Number 5 between Wheeler Ridge and Castaic, there shall be no lateral;

"(D) On or laterally within 5 miles of the following named highways:

- (1) State Highway Number 128
between Geyserville and
Rutherford inclusive;
- (2) State Highway Number 29
between Rutherford and Napa
inclusive."

No additional termini, territory, or routes were sought by the amendment.

The application, as amended, alleges that the proposed new territory will be served by establishing through routes and rates to and from all points presently served. Applicant proposes to provide the service on a daily basis Monday through Friday. Except for service between the extreme ends of the service territory, most shipments would reach their destination the day after pickup.

Applicant is a party to Western Motor Tariff Bureau tariffs and plans to establish rates for the new services in conformity with that agency's present tariffs.

Applicant alleges that it has the financial ability, equipment, and personnel to render the proposed service.

Applicant relies on the following allegations to support a finding of public convenience and necessity:

- "1. There has been a substantial increase in population, industry and shipping requirements in the points and places presently served and proposed to be served by Applicant during the past several years.

- "2. Applicant has received numerous requests from various shippers having movements of the specified commodities to, from and between the points and places located in Applicant's present service area and proposed service area.
- "3. Applicant's regular customers frequently have occasion to tender shipments which require split deliveries where both deliveries are within Applicant's presently authorized service area as a common carrier, and in other instances, where only one delivery could be within the area, and other deliveries are outside the area. This places a rate burden upon Applicant's regular customers.
- "4. Applicant's regular customers frequently have occasion to tender shipments other than split deliveries outside of Applicant's authority wherein Applicant can provide a single integrated service rather than interlining with other carriers in order to eliminate the delay and additional handling caused by interlining the freight.
- "5. The proposed service area to be added is an area largely treated by the shipping public as a single, indivisible and integrated economic area and Applicant must serve the whole of the present and proposed territory in order to meet the requirements of its customers.
- "6. Applicant has been operating over the major highways in California from Fort Bragg, Cloverdale and Sacramento on the one hand and to San Diego on the other hand. There are certain areas in California which are not presently being served by Applicant despite the need for a carrier to serve between points and places presently served by Applicant and those located in the proposed area to be served in this State.

Applicant is seeking a Certificate of Public Convenience and Necessity over routes and in territories that it is not now certificated in so that it may offer a full and comprehensive service to the shipping public between all points and places in California within the proposed area herein sought and the areas presently served by Applicant.

"7. The grant of the requested Certificate of Public Convenience and Necessity to permit Applicant to serve the additional territory herein requested will enable Applicant to afford a more complete service to its customers and fulfill their transportation needs both for intrastate and interstate and foreign commerce service between the points and within the areas proposed to be served.

"8. Applicant is informed and believes and therefore alleges that there exists a lack of adequate highway common carrier transportation service of the type rendered by Applicant from, to and between the points presently served by your Applicant and those points herein sought to be served."

The allegations of the application now stand uncontroverted; we have no reason to believe they should not be accepted as true for the purposes of this proceeding.

We find that public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the amended application and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein.

We conclude that the additional operating authority requested in the amended application should be granted.

Willig Freight Lines 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 Willig Freight Lines, 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 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-Series.

- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend its tariffs on file to reflect the authority granted herein.
- (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.

3. 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 heretofore granted to or acquired by Willig Freight Lines and presently possessed by it, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 23rd day of FEBRUARY, 1973.

Vernon L. Sturgeon
President
Willig Freight Lines
Commissioners

Willig Freight Lines, a corporation, by the certificate of public convenience and necessity granted in 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:

- I. From, to and between all points and places located on or laterally within 25 miles of State Highway 1 between Fort Bragg and San Francisco, including both Fort Bragg and San Francisco, but excluding points located on U.S. Highway 101 north of Cloverdale.
- II. From, to and between all points and places located:
 - (A) On or laterally within 25 miles of the following named highways:
 - (1) State Highway 1 between San Francisco and Carmel, inclusive;
 - (2) U.S. Highway 101 between San Francisco and Los Angeles Basin Territory, hereinafter described in Note A hereof, inclusive;
 - (3) State Highway 99 between Yuba City and Los Angeles Basin Territory inclusive, except for that portion of State Highway 99 between Wheeler Ridge and Castaic, there shall be no lateral;
 - (4) Interstate Highway 15 between San Bernardino and San Diego inclusive.
 - (B) On or laterally within 20 miles of the following named highways:
 - (1) State Highway 65 between Roseville and Marysville, inclusive.

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- (C) On or laterally within 10 miles of the following named highways:
- (1) Interstate Highway 5 between Sacramento and Los Angeles Basin Territory inclusive, except for that portion of Interstate Highway 5 between Wheeler Ridge and Castaic, there shall be no lateral;
 - (2) Interstate Highway 80 between San Francisco and Sacramento, inclusive;
 - (3) State Highway 4 between the intersection with Interstate Highway 80 and Stockton, inclusive;
 - (4) State Highway 1 between Fort Bragg and Rockport, inclusive, including both Rockport and Leggett Valley;
 - (5) State Highway 126 between the intersection with U.S. Highway 101 at Ventura and Interstate Highway 5 near Castaic;
 - (6) State Highway 150 between Santa Barbara and the intersection with State Highway 126 near Santa Paula;
 - (7) State Highway 24 between Oakland and the intersection of State Highway 24 with State Highway 4;
 - (8) State Highway 84 and 160 between their intersection with State Highway 4, approximately 4 miles east of Antioch, and Sacramento, inclusive.
- (D) On or laterally within 5 miles of the following named highways:
- (1) State Highway 128 between Geyserville and Rutherford, inclusive;
 - (2) State Highway 29 between Rutherford and Napa, inclusive;
 - (3) Interstate Highways 80, 580 and 205 and State Highway 120 between San Francisco and State Highway 99.

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- (4) Interstate Highway 80, State Highways 17 and 238, Interstate Highways 580 and 205 and State Highway 120 between San Francisco and State Highway 99;
 - (5) State Highway 150 from its intersection with U.S. Highway 101 at Buellton to Lompoc, inclusive.
- (E) On or laterally within 3 miles of the following named highways:
- (1) State Highway 12 between Santa Rosa and Shellville;
 - (2) State Highway 37 between Shellville and the intersection of State Highway 37 with U.S. Highway 101 near Ignacio;
 - (3) U.S. Highway 101 between Los Angeles Basin Territory, and San Ysidro, inclusive.
- (F) On the following highways:
- (1) State Highway 33 from its intersection with Interstate Highway 205 near Tracy to its intersection with State Highway 152 near Los Banos;
 - (2) State Highway 152 from Los Banos to its intersection with State Highway 99 near Califa;
 - (3) State Highway 33 from its intersection with State Highway 152 near Dos Palos to and including Coalinga;
 - (4) State Highway 198 from its intersection with State Highway 33 to its intersection with State Highway 99.
- (G) The off route point of the Geysers located approximately 20 miles east of Cloverdale via the Cloverdale-Geysers Road and the Healdsburg-Geysers Road.
- (H) Within the San Francisco Territory as described in Note B, hereof.

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(I) Within the Los Angeles Basin Territory.

Any and all available highways may be used and traversed in operating between the points authorized to be served by Paragraphs I and II hereof.

The following commodities shall not be transported:

- (a) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
- (b) 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.
- (c) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- (d) Articles of extraordinary value.
- (e) 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.
- (f) Beer originating at San Francisco and empty beer containers destined to San Francisco.

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Note A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory 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 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 point of beginning, including the point of March Air Force Base.

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Note B

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one 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 two 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 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)

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