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ORIGINAL

Decision No. 81798

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ROGERS MOTOR EXPRESS, a California  
corporation, and WESTERN TRUCK LINES,  
a California corporation, and  
PUBLIC FREIGHT SYSTEM, a California  
corporation, for authority for  
WESTERN TRUCK LINES to purchase a  
portion of authority evidenced by a  
certificate of public convenience  
and necessity from ROGERS MOTOR  
EXPRESS.

Application No. 53977  
(Filed April 19, 1973)

O P I N I O N

Rogers Motor Express, a corporation (Rogers), requests authority to transfer, and Western Truck Lines, a corporation (Western), requests authority to acquire, those portions of the certificate of public convenience and necessity to operate as a highway common carrier granted to Rogers by Decision No. 59826 dated March 22, 1960 in Application No. 41314, as amended, which are detailed in Exhibit A of the Agreement of Sale appended to the application as Exhibit C.<sup>1/</sup> The certificate is registered with the Interstate Commerce Commission. A similar request will be filed with the Interstate Commerce Commission for authority to transfer the corresponding interstate rights. The Agreement of Sale provides for the payment by Western to Rogers of a total consideration of \$50,000 payable within 30 days after approval of the transfers by both Commissions.

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<sup>1/</sup> The operating rights in issue were initially granted to Karlson Bros. Trucking Service, a corporation, but by Decision No. 80780 dated December 5, 1972 in Application No. 49887, the corporation was authorized to change its name to Rogers Motor Express.

Western presently operates as a highway common carrier between numerous points in southern California. The proposed transfer would extend its certificated operations to the San Francisco Bay Area, Santa Rosa, Chico, and Placerville, on the north, and San Ysidro, on the south. Its December 31, 1972 balance sheet shows total assets of \$69,124, total liabilities of \$144,053, and a negative net worth of \$74,929. According to the application, \$76,000 of the liabilities represent the purchase price obligation owed by Western to its former owner; this is to be paid from net earnings after taxes from interlining with the former owner; if all or any part of the obligation is not paid in this manner by September 10, 1976, any remaining portion thereof will be canceled. For the seven months ended December 31, 1972, it had a net loss of \$11,981. Applicant's quarterly report for the first quarter of 1973 shows a profit of \$4,544 before taxes and an operating ratio of 93.7 percent.

The application states that the primary interline connecting carrier of Western was inactive due to labor difficulties during July and August 1972; that this caused a sharp decline in Western's revenue during that period; that all of the stock of Western was acquired on July 31, 1972 by Public Freight System, a corporation, which operates pursuant to intrastate radial highway common carrier and highway contract carrier permits and interstate authority restricted to traffic having an immediately prior or subsequent movement by air or freight forwarder;<sup>2/</sup> that with the exception of an additional vice president for Western, both Public and Western have the same officers, directors, and office in Los Angeles; that under its new management, Western is being developed into a profitable operation; that the cash necessary to purchase the operating rights will be made available to Western in the form of advances on an open account by its president; and that Western will continue to provide the same service for the public which Rogers has been providing under the operating rights sought to be transferred.

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<sup>2/</sup> Public's acquisition of control of Western was authorized by the Interstate Commerce Commission in Proceeding No. MC-F-11323 dated May 4, 1972.

The application was listed on the Commission's Daily Calendar of April 20, 1973. A copy has been served on California Trucking Association. No protests to the granting of the application have been filed with the Commission.

The Commission finds that the proposed transfer will not be adverse to the public interest and concludes that it should be granted as set forth in the ensuing order. A public hearing is not necessary.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Rogers and the issuance of certificates in appendix form to each applicant. Any changes in territorial descriptions or routes in the two certificates reflect the names of redesignated highways and roads and do not in any way exceed the authority as originally granted.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Applicants are 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. 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. On or before December 1, 1973, Rogers Motor Express, a corporation, may sell and transfer the operative rights referred to in the application to Western Truck Lines, a corporation.

2. Within thirty days after the transfer applicants shall file with the Commission written acceptance of the certificates and the purchaser shall file with the Commission a true copy of the bill of sale or other instrument of transfer.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show that they have adopted or established, as their own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings shall comply with the Commission's General Order No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Western Truck Lines and Rogers Motor Express, authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendices A and B, respectively, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted to Rogers Motor Express by Decision No. 59826, as amended by Decisions Nos. 60006, 70904, 73720, and 80780, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants are placed on notice that if they accept the certificates they will be required, among other things, to comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they 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 28<sup>th</sup> day of AUGUST, 1973.

Yernon L. Stanger  
President  
William L. Linn  
John D. Linn  
Mark L. Linn  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Western Truck Lines, 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:

Between any and all points and places in the Los Angeles Basin Territory, as described in Note A, on the one hand, and, on the other hand, all points and places on or within 25 miles laterally of:

- (1) Interstate Highway 80 between San Francisco and Roseville.
- (2) State Highway 99 to its intersection with Interstate Highway 5, Interstate Highway 5 to its intersection with Interstate Highway 10, and Interstate Highway 10, between Sacramento and Redlands.
- (3) The route constructed via Interstate Highways 80, 580 and 205, State Highway 99 and U.S. Highway 50, used consecutively, between San Francisco and Placerville.
- (4) State Highway 120 between its junctions with Interstate Highway 5 at Mossdale Wye and State Highway 108 at Yosemite Junction.
- (5) State Highway 108 between Yosemite Junction and Dardanelle.
- (6) State Highway 12 between Suisun City-Fairfield and Clements.
- (7) State Highway 88 between Clements and Jackson.
- (8) State Highway 4 between its intersection with Interstate Highway 80, near Pinole, and Stockton.
- (9) State Highway 33 between its intersection with Interstate Highway 205, near Tracy, and Maricopa.

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Appendix A

WESTERN TRUCK LINES  
(a corporation)

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- (10) U.S. Highway 101 to its intersection with Interstate Highway 5, and Interstate Highway 5, between Hopland and San Ysidro.
- (11) State Highway 1 between its junctions with U.S. Highway 101 near Oxnard and Interstate Highway 5 near Capistrano Beach.
- (12) State Highway 65 between Yuba City and Roseville.
- (13) State Highway 37 between Ignacio and Vallejo.
- (14) State Highway 70 between Marysville and Oroville.
- (15) Interstate Highway 15 (U.S. Highway 395) between Riverside and San Diego.
- (16) State Highway 152 between Gilroy and Califa.
- (17) State Highway 17 between Oakland and San Jose.

Restrictions:

The authority granted herein does not permit the performance of any local service, including service between points within, or between the territories described in sub-paragraphs (1) through (17) inclusive, nor between points within the Los Angeles Basin Territory.

The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

1. 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.

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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.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. 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.
5. Commodities when transported in conventional tilt dump trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Tomato plants, and fresh fruits and fresh vegetables from any point of origin to any point of destination other than a common carrier trans-shipping facility for further transportation; also empty containers and/or pallets when used, or shipped out for use, in connection with such movements of tomato plants, fresh fruits and fresh vegetables.
8. Cans, metal, tinplated or not tinplated, with or without ends.
9. Cotton, cotton linters and cotton motes.
10. Logs.
11. Fertilizer compounds, (manufactured fertilizers), fungicides, agricultural, and insecticides, agricultural, except when moving from, to or between common carrier terminal facilities in connection with prior or subsequent common carrier transportation from or to points beyond such facilities.



## 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.

(END OF APPENDIX A)

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Rogers Motor Express, 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:

Between all points and places on or within 25 miles laterally of:

- (1) Interstate Highway 80 between San Francisco and Roseville.
- (2) State Highway 99 to its intersection with Interstate Highway 5, Interstate Highway 5 to its intersection with Interstate Highway 10, and Interstate Highway 10, between Sacramento and Redlands.
- (3) The route constructed via Interstate Highways 80, 580 and 205, State Highway 99 and U.S. Highway 50, used consecutively, between San Francisco and Placerville.
- (4) State Highway 120 between its junctions with Interstate Highway 5 at Mossdale Wye and State Highway 108 at Yosemite Junction.
- (5) State Highway 108 between Yosemite Junction and Dardanelle.
- (6) State Highway 12 between Suisun City-Fairfield and Clements.
- (7) State Highway 88 between Clements and Jackson.
- (8) State Highway 4 between its intersection with Interstate Highway 80, near Pinole, and Stockton.
- (9) State Highway 33 between its intersection with Interstate Highway 205, near Tracy, and Maricopa.

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Appendix B

ROGERS MOTOR EXPRESS  
(a corporation)

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- (10) U.S. Highway 101 to its intersection with Interstate Highway 5, and Interstate Highway 5, between Hopland and San Ysidro.
- (11) State Highway 1 between its junctions with U.S. Highway 101 near Oxnard and Interstate Highway 5 near Capistrano Beach.
- (12) State Highway 65 between Yuba City and Roseville.
- (13) State Highway 37 between Ignacio and Vallejo.
- (14) State Highway 70 between Marysville and Oroville.
- (15) Interstate Highway 15 (U.S. Highway 395) between Riverside and San Diego.
- (16) State Highway 152 between Gilroy and Califa.
- (17) State Highway 17 between Oakland and San Jose.

Restrictions:

No local service shall be rendered between points and places in the San Francisco-East Bay Cartage Zone, as described in Note A, on the one hand, and points and places in Marin, Sonoma, or Napa Counties north of San Rafael, on the other hand.

No service shall be rendered locally between points or places in the Los Angeles Basin Territory as described in Note B.

No service shall be rendered between points and places enumerated in subparagraphs (1) through (17) inclusive, on the one hand, and the Los Angeles Basin Territory, on the other hand.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

- 1. 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 4-8.

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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.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. 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.
5. Commodities when transported in conventional tilt dump trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Tomato plants, and fresh fruits and fresh vegetables from any point of origin to any point of destination other than a common carrier trans-shipping facility for further transportation; also empty containers and/or pallets when used, or shipped out for use, in connection with such movements of tomato plants, fresh fruits and fresh vegetables.
8. Cans, metal, tinplated or not tinplated, with or without ends.
9. Cotton, cotton linters and cotton motes.
10. Logs.

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11. Fertilizer compounds, (manufactured fertilizers), fungicides, agricultural, and insecticides, agricultural, except when moving from, to or between common carrier terminal facilities in connection with prior or subsequent common carrier transportation from or to points beyond such facilities.

## NOTE A

## SAN FRANCISCO-EAST BAY CARTAGE ZONE

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 to South Mayfair Avenue; thence westerly along said South 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 State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 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 Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence

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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 said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; 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 shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

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## NOTE B

## 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.

(END OF APPENDIX B)

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