

**ORIGINAL**Decision No. 84094

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of  
KIMKRIS TRUCKING CO., INC., a  
California Corporation, for a  
Certificate of Public Convenience and  
Necessity authorizing the transportation  
of General Commodities, with certain  
exceptions, between certain points  
within the State of California.

Application No. 54988  
(Filed June 24, 1974;  
amended July 19, 1974  
and November 14, 1974)

O P I N I O N

By its application, as amended, Kimkris Trucking Co., Inc. requests authority to transport general commodities, with certain exceptions, and limited to shipments of 20,000 pounds or more between points within the San Francisco Territory and between said points, on the one hand, and, on the other hand, Sacramento, Stockton, Modesto, Vallejo, and points on or within five miles laterally of the following highways:

- (a) U.S. Highway 101 between San Jose and Salinas, inclusive;
- (b) State Highway 17 between San Jose and Santa Cruz, inclusive;
- (c) State Highway 1 between San Francisco and Carmel, inclusive, including the off-route point of Carmel Valley;
- (d) State Highway 9 between Los Gatos and Santa Cruz, inclusive;
- (e) State Highway 152 between Gilroy and State Highway 1 at Watsonville, inclusive;
- (f) State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive;
- (g) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1 at Watsonville, inclusive; and
- (h) State Highway 68 between Salinas and Monterey, inclusive.

Applicant proposes a corresponding service for shipments moving in interstate and foreign commerce. Copies of the application were served upon 101 existing carriers with which the proposed service might compete, and an appropriate notice was published in the Federal Register on August 28, 1974. Protests were heard from Delta Lines, Inc. and Bayview Trucking, Inc. Both protests were withdrawn upon the filing of amendments restricting the scope of the original application.

Applicant proposes a daily, on-call service seven days a week. From its principal place of business in Richmond it presently conducts operations as a permitted carrier using 19 units of equipment. Applicant proposes to assess rates comparable to those set forth in Minimum Rate Tariff 2. As of December 31, 1973, applicant indicated a net worth of \$37,068.

It is alleged that applicant first commenced operations as a permitted carrier in 1966; that its gross revenue increased from \$35,000 in 1966 to \$427,304 in 1973; that applicant has experienced a continuous increase in equipment, number of shippers, and consignees over the years; that the proposed area of operations has experienced a large growth, both in industrial development and population; that many business firms, manufacturers of both raw materials and finished products, have moved their plant locations from Bay Area sites to points within the area sought by applicant; that because of applicant's continuous growth and increased frequency of service applicant is concerned with the legal status of its operations; and that certification would permit applicant to meet the needs of its customers and assure its continued service. ✓

After consideration the Commission finds that:

1. Applicant is presently providing service as a permitted carrier within the proposed certificated area.

2. Applicant's permitted operations within the proposed area have naturally grown and developed over the years because of an ever-increasing demand for service by applicant's customers.

3. Applicant possesses the necessary equipment and financial ability to provide the proposed service.

4. Notice of the filing of this application appeared in the Federal Register of August 28, 1974.

5. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, 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.

6. With reasonable certainty the project involved in this proceeding will not have a significant effect upon the environment.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order. The territorial descriptions or routes of the authority granted reflect the names of redesignated highways and roads and do not in any way exceed the geographical scope of the proposed operation as published in the Federal Register. A public hearing is not necessary.

Applicant is 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. A certificate of public convenience and necessity is granted to Kimkris Trucking Co., Inc., a California 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 set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by 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 of this order, applicant shall establish the authorized service 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 authorized service.
- (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 FEBRUARY, 1975.

I dissent:

William L. Sturgeon, Commissioner

William L. Sturgeon  
President  
William L. Sturgeon Jr.  
Leonard Ross  
Commissioners

Kimkris Trucking Co., Inc., 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, in shipments of 20,000 pounds or more, as follows:

I. Between points and places in the San Francisco Territory as described in Note A; and

II. Between points and places in the San Francisco Territory, on the one hand, and, on the other, Sacramento, Stockton, Modesto and Vallejo.

III. Between points and places in the San Francisco Territory, on the one hand, and, on the other, points and places located on or within 5 miles laterally of the following routes:

- (a) U. S. Highway 101 between San Jose and Salinas, inclusive;
- (b) State Highway 17 between San Jose and Santa Cruz, inclusive;
- (c) State Highway 1 between San Francisco and Carmel, inclusive, including the off-route point of Carmel Valley;
- (d) State Highway 9 between Los Gatos and Santa Cruz, inclusive;
- (e) State Highway 152 between Gilroy and State Highway 1, at Watsonville, inclusive;
- (f) State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive;
- (g) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1 at Watsonville, inclusive; and
- (h) State Highway 68 between Salinas and Monterey, inclusive.

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IV. The authority granted in paragraphs II and III above may not be combined to provide transportation between points enumerated in each respective paragraph.

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 salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
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 bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.

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8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Commodities requiring refrigeration and/or temperature or atmospheric control - all or any part of the year.
11. Frozen foodstuffs and frozen beverages.
12. Fresh fruits and vegetables.

Note A

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; southwesterly 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

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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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Decision No. 84094, Application No. 54983.