

ORIGINALDecision No. 84195

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 MOJAVE TRANSPORTATION CO., a
 California corporation, for a
 certificate of public convenience
 and necessity extending highway
 common carrier service.

Application No. 54577
 (Filed January 15, 1974;
 amended July 15, 1974)

Silver, Rosen, Fischer & Stecher, by John Paul Fischer and Granville Harper, Attorneys at Law, for Mojave Transportation Co., applicant.
 Murchison & Davis, by Donald Murchison, Attorney at Law, for Heavy Transport, Inc. and Progressive Transportation Company; Lonnie J. Inskeep, for Heavy Transport, Inc.; Handler, Baker & Greene, by Daniel W. Baker and Raymond A. Greene, Jr., Attorneys at Law, for Doudell Trucking Company, Lodi Truck Service, and Owl Truck Company; and McLaughlin & Woods, by John G. McLaughlin and Jerry R. Woods, Attorneys at Law, for West Coast Truck Lines, Inc.; protestants.

O P I N I O N

Mojave Transportation Co., presently providing service as a highway common carrier for the transportation of property incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casinghead plants, equipment and material used in construction, and equipment used in farming between all points on and along and within a radius of 50 miles of all major highways within the State, requests authority to transport additional commodities and authority to serve all points

within the State by removal of the 50-mile radius restriction. Applicant also proposes a corresponding extension of service on shipments moving in interstate and foreign commerce. A copy of the application was served upon the California Trucking Association and other interested parties. Appropriate notice was filed in the Federal Register on February 13, 1974.

A public hearing was held before Examiner Porter at San Francisco on July 22, 23, 24, September 12, and 13, 1974, and at Los Angeles on July 30, 31, September 10, and 11, 1974 and the matter was submitted subject to filing of briefs due December 18, 1974.

The certificate was granted by Decision No. 44873 dated October 3, 1950 and was acquired by applicant by Decision No. 60732 dated September 13, 1960 in Application No. 42415. By the instant application, applicant requests an in lieu certificate authorizing transportation as a highway common carrier between all points in the State of California, over any and all available routes, of:

1. Property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casinghead plants, equipment and material used in construction, and equipment used in farming.
2. Commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment.
3. Self-propelled articles (except automobiles, trucks, and trailers other than used construction equipment, and parts and related equipment), transported on trailers, and related machinery tools, parts, and supplies moving in connection therewith.

4. Iron and steel articles as described in 61 MCC 209 and 766 in the Interstate Commerce Commission's Descriptions in Motor Carrier Certificate, Ex Parte 45, Appendix V.
5. Pipe, other than iron and steel, together with fittings.

In addition to the commodity description changes, applicant is also requesting that two restrictions, currently found in its existing authority, be eliminated. These two restrictions are:

1. Applicant shall not transport any shipment which shall carry a charge lower than that applicable to a shipment of 10,000 pounds.
2. Transportation performed under the authority herein granted shall be limited to quantities originating at or destined to an oil well site, construction site, or farm, or originating at or destined to a storage yard.

The proposed extended service will be daily, Monday through Friday, and on Saturday upon request. Applicant owns and operates a wide variety of specialized equipment, which is necessary in the type of service proposed.

Evidence was presented that applicant has commodity authority which, while broad, is also difficult to interpret because it is what is commonly termed as "end use" type of authority. Because of this end use description, applicant has experienced problems in providing intrastate and interstate service in establishing exactly what it is or is not authorized to transport. These problems have occurred particularly with commodities which, because of their size and weight, require special handling or special equipment, and commodities such as self-propelled articles, iron and steel articles, and pipe. The problem arises in having to determine in advance

whether a given commodity may or may not fall within the current commodity description held by applicant, yet this cannot be determined without first entering into an investigation, which in some cases requires that applicant take the word of the consignor or consignee as to the matter of intention.

As testified by Mr. Trout, the changes in technology and methods of operation by the oil field industry, as well as the construction and farming industries, have led to additional requirements for removal of the site restrictions and billing weight restrictions currently found in applicant's authority.

Applicant owns and operates 129 units of equipment and as of October 1973 applicant indicated a net worth in the amount of \$105,460.

Applicant introduced the testimony of 17 public witnesses who appeared in support of the application. In brief, they testified that their respective companies have used applicant's service in the past within the scope of its existing authority; that they depend upon applicant's service; that because of the wording of applicant's existing authority or because of the restrictions imposed, they have not been able to receive the service they require; and that they prefer applicant's service to that of other existing carriers.

Protestants introduced evidence relating to their present operations. They contend that the instant application is merely an attempt by applicant to acquire interstate authority similar to a request of authority presently pending before the Interstate Commerce Commission. By Application No. MC-120722 (Sub No. 2) filed with the Interstate Commerce Commission on October 20, 1971, applicant requested the same California authority involved herein and an extension to operate between California, on the one hand, and points in Oregon, Washington, Idaho, Montana, Utah, Nevada, Colorado, and Arizona, on the other hand. On August 9, 1973, the Administrative

Law Judge issued an order denying the application. Exceptions were filed and the matter is still pending a final order of the Interstate Commerce Commission. It is also contended that applicant's request to operate over irregular routes involves a kind of certificate that this Commission is without authority to issue, because a highway common carrier by definition must operate between fixed points or over regular routes (Section 213 of the Public Utilities Code).

Protestants are for the most part engaged in the transportation of heavy commodities which require the use of flatbed equipment and personnel trained in the techniques of loading and unloading such commodities. They argue that they possess the necessary facilities and equipment to provide such service and are ready, willing, and able to meet the public need for such service within the State. They take the position that applicant's present authority is sufficient to meet the major needs of its customers and that any demand for service over and above its existing certificate could be performed pursuant to applicant's radial permit.

After consideration the Commission finds that:

1. Applicant has been providing service as an oil field hauler on shipments moving between points throughout the State in both intrastate and interstate commerce for many years.
2. Because of difficulties experienced in determining in advance whether a certain shipment will be necessary or incidental to oil, gas, or water well operations, or whether it will be used in construction or farming, applicant seeks an in lieu certificate redefining the terms of its authority and thereby eliminating existing uncertainties and ambiguities.
3. A number of applicant's customers who are presently using applicant's service on shipments moving between points within the State in both intrastate and interstate commerce have experienced problems in using applicant's service because of the uncertain nature of its authority.

4. The proposed commodity description would not materially expand applicant's authority within the State, but it would substantially conform to the heavy carrier type of service that applicant has been conducting for many years, a service which its customers have used and for which they have expressed a need.

5. The removal of the weight restriction and the 50-mile lateral would enable applicant to provide a more flexible service and would result in little if any diversion of traffic from the existing carriers.

6. Protestants' concern that applicant is "agency hopping" is unfounded. Applicant has been conducting an interstate operation between points within the State for many years substantially similar to that set forth in the proposed certificate pursuant to Section 206 of the Interstate Commerce Act. The instant application, in conformity with the provisions of Section 206(a)(6) of the Interstate Commerce Act, requests a finding that public convenience and necessity require applicant's service in shipments moving in interstate and foreign commerce between points within the State of California coextensive with applicant's proposed modified intrastate authority. Applicant seeks no authority in this proceeding to provide a direct service between points in California and points in other states. That issue, it appears, is now pending before the Interstate Commerce Commission in Application No. MC-120722 (Sub No. 2).

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

8. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed 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.

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

The Commission concludes that the application should be granted. Applicant's operating authority will be restated to provide for service between all points within the State with authority to use any and all available routes.

Mojave Transportation Co. 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 Mojave Transportation Co., 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 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 amend or 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 44873 dated October 3, 1950 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 18th
day of MARCH, 1975.

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

Mojave Transportation Co., 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 between all points and places within the State of California, via any and all available routes, for the transportation of:

- (1) Property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casinghead plants, equipment and material used in construction, and equipment used in farming;
- (2) Commodities which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment;
- (3) Self-propelled articles (except automobiles, trucks and trailers other than used construction equipment, and parts and related equipment), transported on trailers, and related machinery tools, parts and supplies moving in connection therewith;
- (4) Pipe, other than iron and steel, together with fittings;
- (5) Iron and steel articles, viz:

Annealing boxes
Annealing box tops and bottoms
Annealing pots
Bars, muck and puddle
Cinder, mill
Molds, ingot
Pig iron
Salamanders, furnace
Scale, mill
Skulls, ladle
Stools, ingot mold
Warmers, mill

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Axles, railway car, old
Bars, sheet and tin plate
Billets
Blooms
Crop ends
Ingots
Rods, coiled
Scrap
Skelp
Slabs
Wheels, car, old

Anchor chain
Anchor rods
Anchors
Angles
Arches, floor
Balls
Band
Bars
Bars, grate
Bases, structural
Beams
Beams, accessories, namely:
 Anchors
 Anchor plates
 Bridging
 Clamps
 Clips
 Hangers
 Screed chairs
Belting, chain and link
Blanks, stampings and unfinished shapes
Boiler and tank parts
Bolts
Bonds, brick and wall
Boxes, charging
Braces, structural
Brackets, structural
Bridge, steel
Buckles, baling tie
Buckles, turn
Bumpers, structural
Cable, chain
Calks, toe
Caps and capitals, structural
Catch basins and covers
Castings
Chain and chain cable

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Channels
Clevises (structural)
Columns
Columns filled with concrete
Cribbing
Cross arms
Culverts
Dogs, timber
Dowels and dowel pins
Fittings, cable, rope and guy wire
Fittings, cast iron pipe
Flooring, structural
Fixtures, fence
Flues, boiler
Flumes
Footwalks
Forgings
Forms and molds, column, floor and road,
concrete construction
Forms, structural
Furring
Gates, fence
Girders
Grating
Ground rods
Guard rails, highway
Guides, elevator
Hangers, joist
Harrow spikes and teeth
Hoops
Ingot mold hot top casing covers and bottoms
Ingot mold hot top casings
Inserts, structural
Insulator brackets, break arms and pins
Irons, pole, electric light and railway
Joints, concrete road
Joists
Joist accessories, namely:
 Anchors
 Anchor plates
 Bridging
 Clamps
 Clips
 Hangers
 Screed chairs
Landing mats and runways, airfield
Lathing and ribbing
Lintels
Machine bed plates, housings, frames and weldings
Manhole covers and frames

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Molding
Nails
Nut locks
Nuts
Pans, galvanizing
Pans, tinning
Pebbles, grinding and polishing
Piling
Pins, bridge
Pins, cotter
Pipe, cast iron
Pipe, plate and sheet
Pipe, wrought
Pipe, conduit
Pipe fittings
Pipe hangers
Plaster grounds
Plate
Plate, armor and deck
Plate, boiler
Plate, nail and tack
Plates
Plates, floor
Plates, structural
Plugs, paper roll
Poles
Polls, axe
Posts, sign
Posts, structural
Posts
Post drivers, fence
Pots, galvanizing
Pots, melting, cast
Pots, slag cast
Pots, tinning
Props, mine
Protectors, pole
Ore drying plates, cast iron or steel
Nails, other than railway
Reinforcement, concrete and plaster
Retaining wall spacers, stringers and stringer stiffeners
Rings
Rings and circles
Rivets
Road grader and scraper blades
Rods, anchor
Rods, fence
Rods, guy anchor
Rods, not coiled
Rods, pull
Rods, sucker

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Rolls and pinions
Roofings and accessories
Rope, wire and strand
Screws
Separators, structural
Sewer inlets
Shafts and shafting
Shapes, unfinished
Sheets
Shingles
Shoes, horse, mule, and ox
Shoes, pile
Shoes, structural
Siding
Snowplow blades
Spikes
Spikes and teeth, harrow
Spreaders, fence
Staples
Stars, tumbling mill
Stays, fence wire
Steps, pole
Stiffeners, stringer retaining wall
Stirrups, joist
Straps and strapping
Strip
Struts, structural
Studding
Tacks
Tees
Terneplate
Ties, baling and binding
Ties, wall
Tin plate
Tin mill black plate
Trusses
Tubes, Boiler
Tubing
Tunnel segments
Turnouts
Tuyeres
Washers
Weights, counter balance
Weights, elevator
Weights for folding bed
Weights, sash
Welding bars, rods and wire
Wire
Wire cable
Wire cloth

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Wire fence
Wire fencing
Wire and wood combined, fencing
Wire netting
Wire rope
Wire strand
Zees

(END OF APPENDIX A)

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