

Decision No. 84894**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
KERN VALLEY TRUCKING, a California
corporation, for an in lieu 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. 54156
(Filed July 6, 1973;
amended May 22, 1975)

Russell & Schureman, by Carl H. Fritze and R. Y. Schureman,
Attorneys at Law, for applicant.
William E. Still, Attorney at Law, for Pacific Motor
Trucking Co., interested party.

O P I N I O N

Applicant operates as a highway common carrier for the transportation of general commodities, with the usual exceptions, between the Los Angeles Basin Territory and Sacramento serving various intermediate off-route points. The authority is set forth in Appendix A of Decision No. 80252 dated July 18, 1972 in Application No. 53060. It also operates in intrastate commerce pursuant to radial highway common carrier and highway contract carrier permits issued by this Commission and in interstate and foreign commerce pursuant to authority issued by the Interstate Commerce Commission.

By this application, as amended by late-filed Exhibit 2 which was received on May 22, 1975, applicant seeks an in lieu certificate of public convenience and necessity authorizing it to transport general commodities, with the usual exceptions, between the San Francisco Territory and the cities of Sacramento and Stockton,

between Wheeler Ridge and the junction of Interstate Highways 5 and 205, serving various intermediate and off-route points, and subject to certain restrictions. A copy of the application has been filed with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act, and notice thereof appeared in the Federal Register on August 1, 1973. The application was protested by Delta Lines, Inc. and Pacific Motor Trucking Company. Public hearing was held before Examiner Arthur M. Mooney in Los Angeles on May 19, 1975, and the matter was submitted upon the filing of late-filed Exhibit 2. With the amendment of the sought authority, Delta Lines, Inc. and Pacific Motor Trucking Company each withdrew its protest.

The following evidence was presented by the president of applicant: He has been with applicant since it commenced operating in 1948 and has been its president since its incorporation. Applicant has terminals in Los Angeles, Lancaster, Bakersfield, Fresno, Tulare, Sacramento, and Stockton. It has maintenance facilities at its Los Angeles and Fresno terminals. It operates approximately 200 units of equipment. Applicant provides overnight service, five days a week, between all points it now serves and will provide such service to the sought extended areas. Its pick-up and delivery service throughout its system is tailored to meet the requirements of its customers. Applicant participates in the tariffs of Western Motor Tariff Bureau, Inc., Rocky Mountain Motor Tariff Bureau, and the National Classification. It offers joint-through rates to any place in the United States and handles freight from the docks. For many years, applicant has participated in the movement of freight to and from the sought areas on an interline basis. This has not proved satisfactory. Although applicant has endeavored to build a reputation based on a dependable and consistent overnight service, there have been numerous instances in which there have been delays of several days or more in the handling of such interlined freight, which has

been beyond the control of applicant. Because of this, applicant has lost many customers. These include customers who ship both to the sought extended areas and within applicant's current certificated area. Applicant has received requests from customers to provide direct service to the sought extended areas. If the authority is granted, it will eliminate the delay time and expense of interchanging equipment with interline carriers, the Interstate Highway 5 route between southern California and the San Francisco Bay Area will save approximately 80 to 90 miles on direct shipments between them, and applicant will add such additional terminals and equipment as may be required. The purpose of this request is to make it possible for applicant to serve its existing customers on a more efficient and economical basis and not to divert traffic from other carriers.

According to applicant's balance sheet of April 30, 1975, it had assets of \$987,873.13, liabilities of \$559,044.63, and a stockholder's equity of \$428,828.50. For the year 1974, applicant had a net loss after income taxes of \$14,262. For the first four months of 1975, it had a net income before income taxes of \$18,722. Its president pointed out that although 1974 was not a profitable year, it is now operating at a profit and has ample financial resources to institute and provide the service proposed herein.

Findings

1. Applicant has the experience, equipment, and financial ability to provide the proposed additional service.
2. The amendment to the sought authority in late-filed Exhibit 2 results in certain restrictions in the sought authority as set forth in the application and as published in the Federal Register and makes no other changes.
3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended by late-filed Exhibit 2, and also require that the 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 this decision.

4. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusion

The Commission concludes that the application, as amended by late-filed Exhibit 2, should be granted as set forth in the ensuing order.

Kern Valley Trucking 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 Kern Valley Trucking, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A of this decision.

2. 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. 80252, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b).


3. 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.

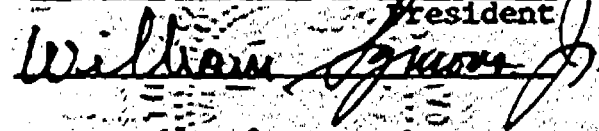
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California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

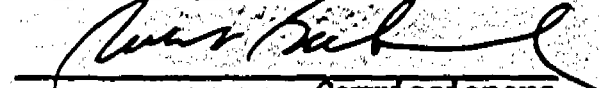
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 19th
day of AUGUST, 1975.



President





Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Kern Valley Trucking, a California 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.

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.

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

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-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

I. Via the following routes:

1. BETWEEN the portion of the Los Angeles Basin Territory, as described in Section II below, and Wheeler Ridge, inclusive; via Interstate Highway 5 including points within 10 miles laterally therefrom. (SEE EXCEPTIONS 1 and 2)
2. BETWEEN Wheeler Ridge and Fresno, inclusive; via State Highway 99 including points within 25 miles laterally therefrom.
INCLUDING points within a 10 mile radius of the following:
 - a. The junction of State Highways 99 and 180 within the City of Fresno.
 - b. The junction of State Highways 198 and 41 near Lemoore.

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

- c. The junction of State Highway 180 and County Road J-19, Fresno County (also known as Valley Road) near Squaw Valley.
3. BETWEEN Fresno and Dunnigan, inclusive, via State Highway 99 and Interstate Highway 5 including points and places within a twenty mile radius of the corporate limits of the City of Sacramento (SEE EXCEPTION 2), and including the off-route points of Escalon, Riverbank and Oakdale.
 4. BETWEEN Fresno and Lincoln, inclusive, via State Highway 99, Interstate Highway 80 and State Highway 65 including points and places within a twenty mile radius of the corporate limits of the City of Sacramento (SEE EXCEPTION 2), and including the off-route points of Escalon, Riverbank and Oakdale.
 5. Interstate Highways 5 and 205 between Stockton and Tracy, inclusive.
 6. State Highway 33 between junction with Interstate Highway 205 near Tracy and Maricopa, including the off-route points of Huron, Kettleman City and Ford City.
 7. State Highway 14, including points within ten miles laterally therefrom, between its junction with Interstate Highway 5 near San Fernando, and a point five miles north of Lancaster, inclusive, including the off-route points of Quartz Hill, Pearblossom and Rosamond (SEE EXCEPTION 1).
 8. BETWEEN points in the San Francisco Territory, as described in Section III below, and Sacramento via Interstate Highway 80 and via State Highways 24, 4 and 160 including points within 5 miles laterally therefrom (SEE EXCEPTION 3).

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

9. BETWEEN points in the San Francisco Territory as described in Section III below, and Modesto via Interstate Highway 580 and State Highway 132 including points within 5 miles laterally therefrom (SEE EXCEPTION 3).
10. BETWEEN Wheeler Ridge and junction Interstate Highways 5 and 205 via Interstate Highway 5 including points within 5 miles laterally therefrom (SEE EXCEPTION 3).
11. BETWEEN Tracy and junction Interstate Highways 205 and 580 via Interstate Highways 205 and 205 Business.
12. Through routes and rates may be established between any and all points specified in subparagraphs 1 through 11 above.
13. For operating convenience only, applicant is authorized to traverse State Highway 14 between a point thereon 5 miles north of Lancaster and Mojave, and State Highway 58 between Mojave and a point thereon 25 miles east of State Highway 99, serving no points or places on or laterally from State Highways 14 and 58.

EXCEPTIONS:

1. Applicant is not authorized to serve Newhall, Saugus and Castaic or the off-route point of Rosamond except in conjunction with split delivery shipments.
2. Applicant is not authorized to provide local service between points:
 - a. Within the described portion of the Los Angeles Basin Territory (See Section II).
 - b. Within a twenty mile radius of the corporate limits of the City of Sacramento.

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

3. Carrier is not authorized to provide service on shipments having both origin and destination within the following-described area and points with 5 miles of said area:

Commencing at the intersection of the San Francisco Territory (as described in Section III below) and Interstate Highway 80, thence northeasterly along Interstate Highway 80 to Sacramento, thence south along Interstate Highway 5 to Interstate Highway 205, thence west along Interstate Highways 205 and 580 to the San Francisco Territory, unless some component of said shipments has origin or destination south of Stockton.

This exception does not apply to routes other than Routes 8, 9 and 10, and does not apply to Lathrop, California.

II. The portion of Los Angeles Basin Territory for which authority is granted herein includes that area embraced by the following boundaries:

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to Chatsworth Street; northeasterly along Chatsworth Street to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundaries 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 and including the City of Redlands; westerly along Interstate Highway 10 to Interstate Highway 15 (U.S. Highway 395); southerly along Interstate Highway 15 to State Highway 91; southwesterly along State Highway 91 to State Highway 55; southerly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

directly south of the intersection of Sunset Boulevard and State Highway 1, thence northerly along an imaginary line to point of beginning.

III.

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

Issued by California Public Utilities Commission.

Decision No. 84804, Application No. 54156.

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. 84804, Application No. 54156.