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Decision No. 85309

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PUBLIC DISTRIBUTION CORPORATION, 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, and for an in lieu
Certificate of Public Convenience
and Necessity therefor.

Application No. 55545
(Filed March 5, 1975;
amended August 14, 1975)

Donald Murchison, Attorney at Law, for applicant.
Carl Fritze, Attorney at Law, for City Freight
Lines, Griley Freight Lines, Los Angeles City
Express, Inc., S. & M. Freight Lines, and
Brake Meier Delivery Service, protestants.

O P I N I O N

Public Distribution Corporation, a California corporation, presently providing service as a highway common carrier for the transportation of specified commodities between points in the Los Angeles Drayage Area and between points within the Los Angeles Drayage Area, on the one hand, and Long Beach, Burbank, Culver City, Van Nuys, Glendale, San Pedro, San Diego, Montebello, and Santa Ana, on the other hand, requests authority to transport general commodities between all points and places within the Los Angeles Basin Territory. Corresponding interstate authority is also requested. An appropriate notice was published in the Federal Register on March 26, 1975.

Public hearing was held before Examiner Daly in Los Angeles on October 28 and 29, 1975, and the matter was submitted.

During the course of hearing applicant amended his application by limiting the scope thereof as follows:

1. Existing specified commodities between all points and places within the Los Angeles Drayage Area; and between all points and places in the Los Angeles Drayage Area, on the one hand, and, on the other hand, Long Beach, Burbank, Culver City, Van Nuys, Glendale, San Pedro, San Diego, Montebello, and Santa Ana.
2. Existing specified commodities between Los Angeles and Long Beach Harbors and points and places in the Los Angeles Metropolitan Zones as described in Item 270-3 of Minimum Rate Tariff 2.
3. General commodities, with certain exceptions between applicant's warehouse in the city of Vernon, on the one hand, and all points and places within the Los Angeles Basin Territory, on the other hand.

The proposed service would be subject to the restriction that applicant would not be able to tack or join any of the requested authorities. With the stipulated amendment all protests were withdrawn.^{1/}

Applicant owns and operates a public utility warehouse in the city of Vernon where it provides a combined warehouse and transportation service for 120 customers. Many of its customers are manufacturers and distributors that are located throughout the United States. Their products are shipped to applicant's warehouse in Vernon where they are stored and eventually distributed to customers located within the Los Angeles Basin Territory. Applicant is presently serving those points beyond its certificate as a permitted carrier.

^{1/} The amendment was received as late-filed Exhibit 17.

Applicant proposes a daily on-call service Monday through Friday. A same-day service would be provided within the Los Angeles Metropolitan Zones if the pickup call is placed before noon. The service to beyond points would be overnight.

Applicant owns and operates 12 units of equipment and as of June 30, 1975, indicated a net worth in the amount of \$153,038.

Applicant's president testified that the company's operations have steadily grown since its inception in 1945; with a continuous increase in population and commercial activity there has been an ever-increasing demand by applicant's customers for extended service; and that many of applicant's customers have a need for a split delivery service, which applicant cannot fully perform under its present authorities.

Three public witnesses testified that they use the combined warehouse and transportation services of applicant; that they have occasion to make intrastate and interstate shipments within the proposed area; that they have a need for the type of service proposed by applicant; that they have occasion to make split delivery shipments and desire to avail themselves of the lower volume rates; and that if certificated they would use applicant to points within the extended area.

After consideration the Commission finds that:

1. Applicant has been transporting limited commodities as a highway common carrier within the Los Angeles Drayage Area and points adjacent thereto for many years. It has also been providing service as a permitted carrier to points within the Los Angeles Basin Territory.

2. At its warehouse in the city of Vernon applicant provides a combined warehouse and transportation service for approximately 120 accounts, many of whom have occasion to make shipments to points within the Los Angeles Basin Territory.

3. With the continuous growth and development of the Los Angeles Basin Territory there has been an increasing demand for applicant's combined services.

4. Applicant possesses the necessary equipment, facilities, experience, and financial ability to provide the proposed service.

5. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as herein-after authorized, 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 this decision.

6. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application, as amended, should be granted. Applicant's operating authority will be restated in the form of a new certificate.

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 Public Distribution Corporation, 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 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.

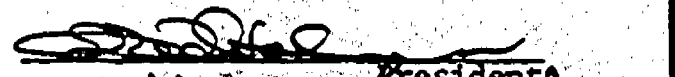
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California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

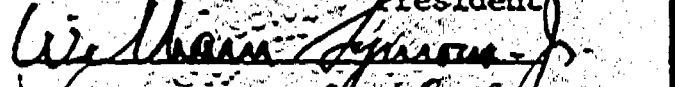
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its 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. 56591 dated April 22, 1958 in Application No. 36231, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

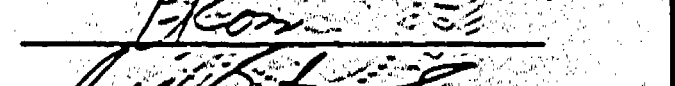
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 6th day of JANUARY, 1976.



President


William L. Thompson


J. R. Ross


Commissioners

Public Distribution 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 as follows:

I.(A) For the transportation of specified commodities described in paragraph B hereof between the following points:

1. Between all points and places within the Los Angeles Drayage area as described in Note A herein; and between all points and places in said Los Angeles Drayage Area on the one hand and on the other hand, Long Beach, Burbank, Culver City, Van Nuys, Glendale, San Pedro, San Diego, Montebello, and Santa Ana.
2. Between Los Angeles and Long Beach harbors on the one hand and Los Angeles Metropolitan Zones as described in Note B herein, on the other hand.

(B) For the transportation of specified commodities as follows:

1. BOXES OR CRATES, INCLUDING FIBREBOARD PAPER OR PULPBOARD BOTTLES OR CANS, as listed under that heading in Items Nos. 13845 through 14646 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
2. CANDY OR CONFECTIONERY, as listed under that heading in Items Nos. 20050 through 20200 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
3. CARRIERS, SHIPPING, as listed under that heading in Items Nos. 20660 through 21251 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

4. CEREAL FOOD PREPARATIONS, as listed under that heading in Items Nos. 21765 through 21900 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
5. CHEMICALS, as listed under that heading in Items Nos. 21980 through 26620 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
6. CONTAINERS, SHEET IRON OR STEEL, SET UP (WITH OR WITHOUT THEIR EQUIPMENT OF BAILS, HANDLES, COVERS, BUNGS OR NOZZLES), as listed under that heading in Items Nos. 30530 through 30565 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
7. DAIRY PRODUCTS, as listed under that heading in Items Nos. 31770 through 31930 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
8. FERTILIZERS, as listed under that heading in Items Nos. 535, 540 and 550 of Pacific South-coast Freight Bureau Exception Sheet No. 1-S, Cal. P.U.C. No. 193, J. P. Haynes, Agent, on the issue date thereof and Supplement No. 34 thereto.
9. FRUITS OR VEGETABLES, DEHYDRATED, DRIED OR EVAPORATED, as listed in Items Nos. 41565 through 41790 of Western Classification No. 76, M. P. Hackler, Alternate Agent, on the issue date thereof.
10. GRAIN PRODUCTS, as listed in Items Nos. 46955 through 47210 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
11. GUMS, as listed in Items Nos. 47900 through 48140 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

12. INSECTICIDES OR FUNGICIDES, AGRICULTURAL, as listed in Items Nos. 52960 through 53110 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
13. INSECTICIDES, INSECT REPELLENTS OR VERMIN EXTERMINATORS, OTHER THAN AGRICULTURAL INSECTICIDES, as listed in Items Nos. 53125 through 53142 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
14. MEATS, COOKED, CURED, FRESH OR PRESERVED; LARD, LARD SUBSTITUTES; RENDERED PORK FATS; OR DRESSED POULTRY, as listed in Items Nos. 67780 through 68030 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
15. PAPER, as listed in Items Nos. 75260 through 75871 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
16. PAPER ARTICLES, as listed in Items Nos. 75890 through 76980 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
17. PASTE, as listed in Items Nos. 77050 through 77110 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
18. ROOTS OR SPICES, as listed in Items Nos. 83785 through 84010 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
19. SEEDS, as listed in Items Nos. 84760 through 85380 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

20. MISCELLANEOUS COMMODITIES, VIZ.:
- Bottles, glass
 - Casein
 - Cellulose
 - Cellulose film
 - Cellulose film products
 - Compounds, cleaning, scouring or washing
 - Dextrine
 - Lecithin, oil concentrate
 - Resins
 - Soap
 - Starch

NOTE A

LOS ANGELES DRAYAGE AREA

LOS ANGELES DRAYAGE AREA includes the area embraced by the following boundary.

Beginning at the intersection of 88th Street and Vermont Avenue; southerly along Vermont Avenue to 120th Street; easterly along 120th Street and its prolongation to Alameda Street; northerly along Alameda Street to Century Boulevard; easterly along Century Boulevard to Santa Fe Avenue; northerly along Santa Fe Avenue to Tweedy Boulevard; easterly along Tweedy Boulevard to Stanford Avenue; northerly along Stanford Avenue to Southern Avenue; easterly along Southern Avenue to Atlantic Avenue; southerly along Atlantic Avenue to Southern Avenue; easterly along Southern Avenue to the west bank of the Los Angeles River; northerly along the west bank of the Los Angeles River to Gage Avenue; easterly along Gage Avenue to Garfield Avenue; northeasterly along Garfield Avenue to Anaheim Telegraph Road; southeasterly along Anaheim Telegraph Road to Church Street; northeasterly along Church Street and its prolongation across the Atchison, Topeka and Santa Fe right of way to Vail Avenue; northeasterly along Vail Avenue to Ferguson Drive; westerly along Ferguson Drive to Gerhart Street; northerly along Gerhart Street to Hubbard Avenue; westerly along Hubbard Avenue and its prolongation to Eastern Avenue; southerly along Eastern Avenue to Whittier Boulevard; westerly along Whittier Boulevard to Downey Road; northerly along Downey Road to Hubbard Avenue; westerly along Hubbard Avenue to Indiana Street; northerly along Indiana Street and its prolongation to City Terrace Drive; northerly along City Terrace Drive to Ramona Boulevard; northeasterly along Ramona Boulevard to Eastern Avenue; northerly along Eastern Avenue and Marianna Avenue

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

to the boundary line of the City of Los Angeles; easterly, northerly and westerly along the boundary of the City of Los Angeles to the boundary of Forest Lawn Memorial Park; southwesterly and northwesterly along the boundary of Forest Lawn Memorial Park to Rosslyn Street; southwesterly along Rosslyn Street to San Fernando Road; southeasterly along San Fernando Road to Tyburn Street; southwesterly along Tyburn Street to its intersection with the boundary of the City of Los Angeles; northwesterly and westerly along the boundary of the City of Los Angeles to Barham Boulevard; southerly along Barham Boulevard to Cahuenga Boulevard; southeasterly along Cahuenga Boulevard to Mulholland Highway; westerly along Mulholland Highway to Coldwater Canyon Road; southerly along Coldwater Canyon Road to the boundary of the City of Beverly Hills; southeasterly along the boundary of the City of Beverly Hills to the intersection of La Cienega Boulevard and Olympic Boulevard; easterly along Olympic Boulevard to Victoria Avenue; southerly along Victoria Avenue to Exposition Boulevard; easterly along Exposition Boulevard to Crenshaw Boulevard; southerly along Crenshaw Boulevard to Stocker Street; westerly along Stocker Street to Victoria Avenue; southerly along Victoria Avenue to Slauson Avenue; westerly along Slauson Avenue to Brynhurst Avenue; southerly along Brynhurst Avenue to 59th Street; easterly along 59th Street to Van Ness Avenue; southerly along Van Ness Avenue to 74th Street; easterly along 74th Street to Normandie Avenue; southerly along Normandie Avenue to 88th Street; easterly along 88th Street to the point of beginning.

NOTE B LOS ANGELES METROPOLITAN ZONES AREA

LOS ANGELES METROPOLITAN ZONES AREA includes the area embraced by the following boundary:

Beginning at the intersection of State Highway 1 and State Highway 27; thence northwesterly along State Highway 27 to Mulholland Drive in Woodland Hills; northwesterly and along the city limits of Los Angeles to a westerly prolongation of Van Owen Street near Canoga Park; northerly along the city limits of Los Angeles to the prolongation of an imaginary line due west of the intersection of Rinaldi Street and Zelzah Avenue; easterly along such imaginary line to Balboa Boulevard; northerly along Balboa Boulevard to San Fernando Road; northwesterly along San Fernando Road to the intersection of San Fernando Road and the city limits of Los Angeles near Sylmar; northeasterly and along the city limits of Los Angeles to the boundary of the Angeles National Forest;

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

casterly and southerly along the boundary of the Angeles National Forest to the San Bernardino County Line; southwesterly and southerly along the San Bernardino County Line to Carbon Canyon Road; southwesterly along Carbon Canyon Road to Olinda Drive; southerly along an imaginary line to the intersection of Ohio Street and Oriente Drive; southerly along Ohio Street to Mountain View Avenue; southeasterly along Mountain View Avenue to Orchard Drive southerly along Orchard Drive and Kellogg Drive to Orangethorpe Avenue; easterly along Orangethorpe Avenue to State Highway 90; southerly along State Highway 90 to State Highway 91; easterly along State Highway 91 to Mohler Drive; southerly along an imaginary line to the intersection of Santiago Canyon Road and Chapman Avenue; southeasterly along Santiago Canyon Road to Peters Canyon Road; southerly along Peters Canyon Road to Irvine Boulevard; southeasterly along Irvine Boulevard to Sand Canyon Avenue; southwesterly along Sand Canyon Avenue to Interstate Highway 5; southeasterly along Interstate Highway 5 to State Highway 133; southerly along State Highway 133 to Laguna Canyon Road; southwesterly along an imaginary line to the intersection of Muddy Canyon and the shoreline of the Pacific Ocean between the cities of Newport Beach and Laguna Beach; northwesterly, westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of State Highway 1 and State Highway 27; northerly along an imaginary line to point of beginning.

II. For the transportation of general commodities between all points and places within Los Angeles Basin Territory as described in Note C herein.

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).

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

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-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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

12. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

NOTE C

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 Avenue and its prolongation to the 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.

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.

III. Pursuant to the authority herein granted, carrier is prohibited from establishing through routes or joint rates between the points in Part I hereof and Part II hereof.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 85309, Application No. 55545.