

Decision No. 89037 JUN 27 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 AMERICAN TRANSFER CO., a corporation,)
 for an extension of its certificate)
 of public convenience and necessity)
 as a highway common carrier.)

Application No. 56550
 (Filed June 10, 1976)

O P I N I O N

Applicant operates pursuant to a highway common carrier certificate between all points and places in the San Francisco Territory and along various routes with 15-mile laterals between the San Francisco and Sacramento areas on the north and the Los Angeles area on the south. The certificate also authorizes the transportation of various items required by Pacific Gas and Electric Company for the construction, maintenance, and operation of high voltage transmission lines within a limited area. The general commodity authority includes the usual exceptions and also restrictions prohibiting the following transportation: shipments of window glass, other than plate, from Fresno to the Los Angeles Basin Territory; local service in the Los Angeles Basin Territory; shipments under 10,000 pounds originating at or destined for any point more than 10 miles south of Bakersfield; and shipments of flat glass, not bent, between Sunmaid Siding near Kingsburg, on the one hand, and the San Francisco Bay and Los Angeles Areas, on the other hand, and from the Fresno Extended Area to the San Francisco Bay Area, when there has not been a prior or subsequent movement by motor, rail, or water carrier. The authority is set forth in Appendix A of Decision No. 83186 dated July 23, 1974, as amended.

by Decision No. 63303 dated August 20, 1974 in Application No. 54459, and as further amended by Decision No. 88736 dated April 18, 1978 in Application No. 57812. Applicant also operates in intrastate commerce pursuant to radial highway common carrier and highway contract carrier permits and a petroleum irregular route certificate and in interstate and foreign commerce pursuant to authority issued by the Interstate Commerce Commission (ICC).

By this application applicant requests an extension of its general commodities certificated authority to include service along various routes with 20-mile laterals between its present area and Redding, San Ysidro, and certain other points. Copies of the application were served upon numerous existing carriers with which the proposed service might compete. A copy of the application was also furnished to the California Trucking Association. It was also listed on the Commission's Daily Calendar. A copy has been filed with the ICC pursuant to Section 206(a)(6) of the Interstate Commerce Act, and notice thereof appeared in the Federal Register on August 13, 1976. The application was protested by the California Trucking Association and five highway common carriers. By letters dated March 15, 1977, September 22, 1977, and March 14 and 30, 1978, applicant added restrictions to the proposed extended authority prohibiting the following transportation: (1) shipments in ocean containers, and empty ocean containers, having a prior or subsequent movement by water, moving to, from, or between points south of San Clemente on Interstate Highway 5 and all points and places within 20 miles of said route; (2) shipments having both point of origin and point of destination in the Los Angeles Basin Territory; (3) shipments having either point of origin or point of destination at any point north of Red Bluff; (4) shipments weighing less than, or rated less than, 10,000 pounds from or to points within the sought additional areas; (5) shipments

between Santa Maria and Los Angeles weighing less than, or rated less than, 30,000 pounds; and (6) shipments of rough-cut lumber between Dinkey Creek and Fresno. With the filing of these restrictions, all protestants have informed the Commission in writing that they have no further interest in the matter, with the last such notification having been received on April 3, 1978.

The application states as follows: Applicant has had over 25 years' experience operating as a highway common carrier. It is now operating into the sought extended areas under its permitted authority and is experiencing a continuing and expanding demand for such service, particularly with respect to shipments of 10,000 pounds or more, or rated as such. Many of its present customers are tendering shipments moving both within and without its present certificated area. They would prefer that applicant provide all of this service as a highway common carrier and assume the responsibility as such. Further, the granting of the application would permit applicant to perform split pickup and delivery service between points in both areas. There are already a number of less than truckload common carriers in the sought extended areas but relatively few who provide service on larger shipments of 10,000 pounds or more. Public convenience and necessity require that applicant be authorized to provide the sought service in both intrastate and in interstate and foreign commerce. Applicant has a substantial equipment fleet, which is listed in Exhibit 4 of the application; it also has terminals in Bakersfield, Fresno, Stockton, and Ventura. Should any additional equipment, terminal facilities, or personnel be required to provide the sought service, applicant has the financial ability to provide such.

According to applicant's balance sheet dated December 31, 1975, it had assets of \$3,083,494, liabilities of \$795,255, and a stockholders' equity of \$2,288,239. For the year 1975 it had a net income, after federal and state income taxes, of \$125,075.

We are of the opinion that the application, as amended, should be granted. An in lieu certificate setting forth both applicant's present certificated authority and that granted herein will be issued, and the certificate granted to it by Decision No. 83186, as amended by Decisions Nos. 83303 and 88736, will be canceled.

It is noted that an investigation of certain safety violations by applicant was undertaken by the Commission in Case No. 10246. The investigation was terminated by Decision No. 88620 dated March 21, 1978. Finding 3 of the decision stated that applicant "has taken appropriate corrective action and asserts it is committed to a continuation of programs to assure compliance with applicable safety regulations".

Findings

1. Applicant has the experience, equipment, and ability to provide the proposed service.
2. 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 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.
3. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. There are no protests to the application, as amended.
5. A public hearing is not necessary.

Conclusion

The application should be granted as set forth in the ensuing order.

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 American Transfer 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. 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. 83186, as amended by Decisions Nos. 83303 and 88736, 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 April 30 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 thirty days after the date hereof.

Dated at San Francisco, California, this 27th day of JUNE, 1978.

William J. ... President
Reginald L. ...
Richard D. ...
Clair L. ... Commissioners

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.

American Transfer 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 for the transportation of general commodities for the following transportation.

I. General commodities:

- A. Between all points and places in the San Francisco Territory, as described in Note A.
- B. Between all points and places on or within 15 statute miles laterally of the following routes:
 1. Interstate Highway 80 between San Francisco and its junction with State Highway 65, near Roseville; State Highway 65 between its junction with Interstate Highway 80 and Lincoln.
 2. State Highway 4 between its junction with Interstate Highway 80, near Pinole, and Stockton.
 3. Interstate Highway 580 between its junction with Interstate Highway 80, near Emeryville and its junction with Interstate Highway 5 near the Stanislaus-San Joaquin County Line; Interstate Highway 205 between its junction with Interstate Highway 580, near the Alameda-San Joaquin County Line, and its junction with Interstate Highway 5, northeast of Tracy;
 4. State Highway 120 between its junction with Interstate Highway 5 and its junction with State Highway 99.
 5. State Highway 33 between its junction with Interstate Highway 5, southeast of Tracy, and Maricopa; State Highway 180 between Mendota and Fresno; State Highway 152 between Los Banos and its junction with State Highway 99.

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6. State Highway 99 between Sacramento and its junction with Interstate Highway 5, near Wheeler Ridge, including the off-route point of Ione.
7. State Highway 166 between Maricopa and its junction with State Highway 99.
8. Interstate Highway 5 between Dunnigan and Sacramento and between its junction with Hammer Lane and the Los Angeles Basin Territory, as described in Note B.
9. State Highway 198 between its junction with Interstate Highway 5 and its junction with State Highway 65, near Exeter.
10. State Highway 65 between its junction with State Highway 198, and its junction with State Highway 99, north of Bakersfield.
11. Unnumbered highway (Clovis Avenue), between Clovis and its junction with State Highway 99, northwest of Fowler.
12. Unnumbered highway (Jensen Avenue), between Calwa and Sanger.
13. Unnumbered highway (Manning Avenue), between its junction with State Highway 99 southeast of Fowler, and Reedley.
14. Unnumbered highway (Mountain View Avenue), between its junction with State Highway 99 near Selma, and Dinuba.
15. County Road J-19 (Road 80) between Dinuba and its junction with State Highway 198, west of Visalia.
16. State Highway 43 between its junction with State Highway 198, east of Hanford and Wasco.
17. State Highway 41 between Fresno and its junction with Interstate Highway 5, south of Kettleman City.

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18. State Highway 58 between Buttonwillow and McKittrick.
- C. Between all points and places on and within twenty (20) statute miles of the following routes:
1. Interstate Highway 5 between Dunnigan and Redding, inclusive.
 2. Interstate Highway 5 between San Clemente and San Ysidro, inclusive.
 3. State Highway 99 between Sacramento and Red Bluff, inclusive.
 4. U.S. Highway 101 between San Francisco and Los Angeles, inclusive.
 5. State Highway 120 between Manteca and the intersection of State Highway 108, inclusive.
 6. State Highway 108 between Sonora and the intersection of State Highway 108 and State Highway 120, inclusive.
 7. State Highway 168 between Fresno and Mono Hot Springs, inclusive.
 8. State Highway 180 between Fresno and Cedar Grove, inclusive.
 9. Between Shaver Lake Heights and Centerville via Dinkey Creek Road, McKinley Grove Road, Black Rock Road and Trimmer Springs Road.
 10. State Highway 65 between Lincoln and Marysville.

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,

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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-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. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Glass, window other than plate, from Fresno to the Los Angeles Basin Territory.

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10. Glass, flat, not bent, (1) between Sunmaid Siding near Kingsburg, on the one hand, and on the other hand Metropolitan Zones 101 through 135 (San Francisco Bay Area) and Metropolitan Zones 201 through 262 (Los Angeles Area) as described in Distance Table 8 on the issue date thereof, and (2) from the Fresno Extended Area, as described in Distance Table 8, on the issue date thereof, on the one hand, and Metropolitan Zones 101 through 135 (San Francisco Bay Area) as described in Distance Table 8, on the issue date thereof, on the other hand. The foregoing exclusion shall not apply when there is a prior or subsequent movement by motor, rail or water carrier.

D. Routes 1 through 10 under Sub-paragraph C above are subject to the following restrictions:

Carrier shall not transport any shipments of:

1. Ocean containers or Empty Ocean Containers, having a prior or subsequent movement by water, moving from, to or between points south of San Clemente on Interstate Highway 5 and all points and places within twenty (20) statute miles of said route.
2. Commodities having either point of origin or point of destination at any point north of Red Bluff.
3. Commodities weighing less than 10,000 pounds or upon which freight charges have been computed at a weight less than 10,000 pounds.
4. Commodities transported between Santa Maria and Los Angeles weighing less than 30,000 pounds or upon which freight charges have been computed at a weight less than 30,000 pounds.
5. Rough Cut Lumber between Dinkey Creek and Fresno.

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II. Structural steel forms, tower line hardware, utility poles, insulators, wire, conductors and such other commodities as are required for the construction, maintenance and operation of the high voltage transmission lines of Pacific Gas and Electric Company:

A. Between all points and places on or within 15 statute miles laterally of the following routes:

1. State Highway 41 between its junction with State Highway 1, north of Morro Bay, and its junction with Interstate Highway 5, south of Kettleman City.
2. State Highway 46 between Paso Robles and Lost Hills.
3. State Highway 58 between Santa Margarita and McKittrick.
4. Unnumbered highway between Arroyo Grande and La Panza via Arroyo Grande Forest Station and Pozo.
5. State Highway 1 between its junction with State Highway 41, north of Morro Bay and San Luis Obispo.
6. U.S. Highway 101 between Paso Robles and Arroyo Grande.

III. The authority granted herein is subject to the following conditions:

- A. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.
- B. No local service is authorized between points in Los Angeles Basin Territory.
- C. On shipments originating at or destined to any point more than ten statute miles south of Bakersfield, service is restricted to shipments each weighing 10,000 pounds or more.

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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 Company 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 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.

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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 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.

(END OF APPENDIX A)

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