

ORIGINAL

Decision No. 90160 APR 10 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HOBBS TRUCKING CO., 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. 58267
 (Filed July 31, 1978;
 amended November 28, 1978)

O P I N I O N

Hobbs Trucking Co. (Hobbs), a California corporation, seeks an extension of its certificate of public convenience and necessity to operate as a highway common carrier for the transportation of property in intrastate commerce and in interstate and foreign commerce, and for an in lieu certificate of public convenience and necessity therefor. A copy of the subject application has been filed with the Interstate Commerce Commission pursuant to Section 20 6(a)(6) of the Interstate Commerce Act, and the required notice of such application was published in the Federal Register on August 31, 1978.

Hobbs is presently operating in intrastate commerce as a highway common carrier for general commodities with exceptions between points and places in the Los Angeles Basin Territory, for fresh or green fruits between specified points and Santa Ana and Ontario, and for fresh or green fruits between Escondido and El Cajon, on the one hand, and Ontario, on the other hand, all as described in Appendix A to D.81626 dated July 24, 1973 in A.54004. In addition, Hobbs operates as a permitted carrier and, as of the filing of the application, holds radial highway common carrier, highway contract carrier, dump truck carrier, and agricultural carrier permits issued in File No. T-106,194.

Hobbs seeks an extension of its operations as a highway common carrier authorized to transport general commodities between all points and places in the Los Angeles Basin Territory, to include all points and places within the San Diego Territory, points and places on and within 10 miles laterally of Interstate Highways 5, 15, and 15E between the Los Angeles Basin Territory and the San Diego Territory, and all points and places in and between the Los Angeles Basin Territory and San Diego Territory, above described, on the one hand, and Goleta and all points and places on and within 10 miles laterally of State Highway 101 and California Highway 1, between Goleta and Los Angeles Basin Territory, on the other hand. Initially, City Freight Lines and Containerfreight Transportation Company protested the granting of the application on the grounds they held authority completely duplicating that sought by Hobbs. However, Hobbs filed an amendment to the application imposing restrictions on interstate traffic against shipments in interstate or foreign commerce weighing less than 10,000 pounds except between points of origin and destination lying wholly within the Los Angeles Basin Territory and against shipments moving in containers having a prior or subsequent movement by water except between points of origin and destination lying wholly within the Los Angeles Basin Territory. With the filing of the amendment, City Freight Lines and Containerfreight Transportation Company withdrew their protests.

Hobbs proposes to provide the requested service on an "on call" basis Monday through Friday, with Saturdays and Sundays excluded and holidays excepted. Such service is contemplated to be overnight service.

Hobbs is presently a party to all Western Motor Tariff Bureau, Inc., Agent, Tariff publications as are necessary for the publication of rates to cover its existing intrastate and interstate or foreign commerce operations.

In connection with the proposed service, Hobbs proposes to establish rates substantially in conformity with the rates and charges presently published in the above-described tariffs or participate in various other bureau tariffs publishing joint rates between the points to be served in California, on the one hand, and points in other states, on the other hand, on interchange with carriers participating therein at the most convenient points of interchange to provide expeditious service.

Hobbs states that all its present fleet of equipment, as listed in Exhibit E to the application, will be available for use in the proposed service and that it has the ability and is willing to provide such additional equipment as the demands of its service may require.

Hobbs states that copies of the application were forwarded to the common carriers now operating between the points proposed to be served, so far as known to it, and with which the proposed service is likely to compete.

In justification for the sought authority, Hobbs states that it has, for a number of years, operated between points in California in intrastate commerce and has served the area embraced in its certificate in interstate or foreign commerce. Hobbs also alleges that there is a lack of the type of service now rendered by him in its present service area from, to, and between the points being sought to be served and further, that its regular customers frequently have occasion to make shipments which require split deliveries where only one delivery could be effected within its present service area and the other is in the area proposed to be served.

Hobbs alleges it has the financial ability to provide the proposed service as indicated by the balance sheet as of March 31, 1978 attached to the application as Exhibit D which shows assets of \$361,648, liabilities of \$188,716, and capital of \$172,932.

In its advice of participation dated September 22, 1978, the Commission's Transportation Division staff stated its belief that this application, in the absence of protest, could be granted ex parte and recommended that if the application is granted, the scope of operating authority be restated in appendix form and that the authority granted by D.81626 dated July 24, 1973 in A.54004 be revoked. As previously stated, the protests to the granting of the application were withdrawn.

Hobbs alleges that the granting of this application will have no significant effect upon the quality of the human environment.

Findings

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

2. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application and also require that applicant be authorized to engage in coextensive 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.

Conclusion

The Commission concludes that the application should be granted. The territorial description of the authority granted herein reflects the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operations. A public hearing is not necessary.

Hobbs Trucking 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 applicant, Hobbs Trucking 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 to do so 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

D.81626 dated July 24, 1973 in A.54004, 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 thirty days after the date hereof.

Dated at San Francisco, California, this 10th day of APRIL, 1979.

John G. Conyon
President
James L. Stinson
Richard O. Howell
Clair J. DeFries
Samuel J. ...
Commissioners

Hobbs Trucking 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:

I. General Commodities as follows:

- A. Between all points and places in Los Angeles Basin Territory as described in Note A hereof.
- B. Between all points and places in San Diego Territory as described in Note B hereof.
- C. Between all points and places in Los Angeles Basin Territory, on the one hand, and, on the other hand, points and places in San Diego Territory and points and places on and within ten (10) statute miles laterally of Interstate Highways 5, 15 and 15E between said territories.
- D. Between all points and places in Paragraph C above, on the one hand, and, on the other hand, Goleta and all points and places on and within ten (10) statute miles laterally of U.S. Highway 101 and State Highway 1.
- E. RESTRICTION ON INTERSTATE TRAFFIC
 1. Restricted against the transportation of shipments in interstate and foreign commerce weighing less than 10,000 lbs. except between point(s) of origin and point(s) of destination, both of which lie wholly within the Los Angeles Basin Territory as described in Note A.

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2. Restricted against the transportation of shipments moving in containers having a prior or subsequent movement by water, except between point(s) of origin and point(s) of destination, both of which lie wholly within Los Angeles Basin Territory as described in Note A.
- II. Fruits, fresh or green (not cold pack or frozen) as follows:
- A. Between Santa Paula, Fillmore, Santa Susana, Placentia, Piru, Camarillo, Ojai, Ventura, Montalvo, Oxnard, and Pt. Mugu, on the one hand, and Santa Ana and Ontario, on the other hand.
 - B. Between Escondido and El Cajon, on the one hand, and Ontario, on the other hand.
- III. 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.

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, briefcases, 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.

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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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Newsprint paper and printing paper used in the publication of newspapers and other printed matter, in flat stock and in rolls, except within Los Angeles Basin Territory.

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NOTE A

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.

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NOTE B

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S-17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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