

Decision No. 90174 APR 10 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

BRAKE DELIVERY SERVICE - MEIER)
TRANSFER SERVICE, a corporation,)
for authority to abandon a por-)
tion of its Certificate of Public)
Convenience and Necessity.)

Application No. 58608
(Filed January 18, 1979)

O P I N I O N

Brake Delivery Service - Meier Transfer Service, a California corporation, holds a certificate of public convenience and necessity as a highway common carrier granted by Decision 85149 dated November 18, 1975 in Application 55732. The certificate authorizes transportation of general commodities with the usual exclusions between various points and areas in southern California in Appendix A thereof and specific commodities in Appendix B thereof. The certificate is partially registered for coextensive interstate and foreign commerce operations with the Interstate Commerce Commission in Docket No. MC-96679 (Sub. No. 2).

Applicant requests herein that the Commission revoke its certificate of public convenience and necessity set forth in Appendix A of Decision 85149 to the extent that it authorizes:

"Leasing of equipment with driver to a shipper(s) under written contract(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates."

As grounds for the requested amendment to its certificate of public convenience and necessity, applicant asserts that it desires to perform the subject service under its contract carrier permit. The leasing of equipment with drivers to shippers at unit rates is a rental service without regard to the kind of commodities loaded, whether or not the equipment is idle for portions of the contract

term. The cost of operating the vehicles under such arrangements would vary substantially with the type, size and age of the vehicle required by the shipper. As such, it is impractical and uneconomical to publish rates to meet all of the varying needs of the shipping public desiring to utilize this type of service.

Applicant is desirous of meeting specific requirements of shippers and, as such, flexibility is needed in assessing proper charges for particular units of equipment. By publishing specific tariff rates, applicant is, in essence, limited to furnishing only standard type equipment which would fall within the economics of the tariff publications. By removing such operations from its certificate, applicant will be able to assess rates at or above those rates established under Section 3662 of the Public Utilities Code. Likewise, should such rates be deemed unreasonable as applicable to specific situations, then applicant would be free to apply for a deviation under Section 3666 to meet specified shipments. Thus, the public will benefit by being able to obtain specific shipments and by being able to obtain specific equipment at a cost commensurate with the specific requirements of a particular movement.

Applicant misconstrues the nature of the operation it desires to have restricted from its operating authority. Rather than a lease, this service is for-hire transportation performed under a written agreement for an extended period of time, notwithstanding the fact that we have referred to it by other descriptions in prior decisions. However, this type of operation is peculiarly susceptible to the contract carrier service and we will, therefore, grant the applicant's request.

After consideration, the Commission finds that:

1. Public convenience and necessity no longer requires the service of the applicant's transportation involving equipment with driver provided to a shipper(s) under written agreement(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates.

2. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted. However, such conclusion should not be construed as a policy determination with respect to future petitions to exempt certain transportation service from the provisions of a certificated operating authority. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. Appendix A of Decision 85149, dated November 18, 1975, in Application 55732 is hereby amended by substituting First Revised Pages 3 and 4 attached hereto and by this reference made a part hereof, in place and stead of Original Pages 3 and 4 of Appendix A thereof.

2. Within sixty (60) days after the effective date hereof and on not less than five (5) days' notice to the Commission and to the public, applicant shall amend its tariff on file with the Commission to reflect the amended authority herein granted.

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 E. Boyer
President
James L. Stinson
Richard P. Howell
Charles J. DeLoach
Samuel L. Jones
Commissioners

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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
- *9. Transportation by equipment with driver for a shipper(s) under written agreement(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates.

PART II

LOS ANGELES BASIN AREA

Los Angeles Basin Area includes the area embraced by the following boundary:

Beginning at the intersection of State Highway 27 and State Highway 1; northerly on State Highway 27 to U.S. Highway 101; westerly on U.S. Highway 101 to a point where the city limits of the City of Los Angeles are intersected thereby; northerly and easterly along said city limits of Los Angeles to a point from which an imaginary line drawn easterly intersects Interstate Highway 405; easterly from such point along such imaginary line to Interstate Highway 405; southerly along Interstate Highway 405 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; thence

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*Amended by Decision No. 90174, Application No. 58608.

* northeasterly along McClay 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 State Highway 38; westerly along State Highway 38 to Bryant Street north of Yucaipa; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Redlands 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; southerly along Interstate Highway 15 to Alessandro near March Air Force Base; westerly along Van Buren Boulevard to Arlington; southwesterly along Magnolia Avenue to State Highway 91; southwestly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to the point of beginning.

Included within the territory immediately above described are all places within the corporate limits of any city which is bisected by state and interstate highways and county roads constituting the boundary of such territory between Yucaipa and Newport Beach.

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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