

ORIGINAL

Decision No. 90533

JUL 3 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of KING DELIVERY, INC., a cor-)
poration for authority to acquire)
a certificate of public conven-)
ience and necessity, and SWIFT)
TRANSPORTATION COMPANY, a cor-)
poration to transfer pursuant to)
Sections 851 to 854 of the Public)
Utilities Code.)

Application No. 56561
(Filed June 16, 1976)

ORDER GRANTING PETITION
FOR MODIFICATION

By its petition filed January 10, 1979, King Delivery, Inc., a California corporation, seeks modification of its highway common carrier certificate. It desires to exclude therefrom the authority to enter into written contracts for the leasing of equipment with driver, for the exclusive use of a vehicle or combination of vehicles pursuant to applicable hourly, daily, weekly, monthly or yearly vehicle unit rates, rules and regulations, by adding the following restriction:

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

Petitioner alleges that the cost of operating the vehicles at unit rates varies substantially with the type, size, and age of the equipment required by the contracting party. It is impractical and uneconomical to attempt to publish rates in a tariff to meet the great variety of circumstances necessary to satisfy the needs of the contracting party. Some highway common carriers are willing to provide equipment at unit rates only if the customer will take the usual type of equipment used in the ordinary service of highway

common carriage. This carrier wishes to accommodate the special requirements of particular shippers and must have the flexibility to obtain the particular equipment, which meets a shipper's needs, and charge what it is worth. The variations of required equipment specifications affect the cost of the equipment and therefore the rental value thereof. Further, the applicant is not always aware of the identity of the articles transported under these arrangements. Bills of lading, which list the commodities included in shipments and thereby provide the basis for the application of rates, are not required when MRT 15 unit rates are assessed. By removing from the applicant's certificate its right to enter into such written contracts at unit rates, it will be in a position to assess rates at or above those established pursuant to Section 3662 of the Public Utilities Code or, where reasonable, seek deviations from established minimum rates pursuant to Section 3666 supra.

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 require 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.

IT IS ORDERED that:

1. Appendix A of Decision 86424 dated September 21, 1976 in Application 56561 is hereby amended by incorporating therein First Revised Pages 3, 4, and 5 attached hereto and made a part hereof, in place of Original Pages 3, 4, and 5.

2. Within sixty days after the effective date of this order and on not less than ten days' notice to the Commission and the public, petitioner shall amend its tariff presently on file with this Commission to reflect the authority herein granted.

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

Dated at San Francisco, California, this 3rd day of JULY, 1979.



President









Commissioners

- *10. 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.

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.

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

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*Amended by Decision 90533, Application 56561.

* 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.

Note B

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 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

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*Force Base; westerly along Van Buren Boulevard to Arlington; southwesterly along Magnolia Avenue to State Highway 91; southwesterly and westerly 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 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.

Note C

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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