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ORIGINAL

Decision No. 90940 OCT 23 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
STERLING TRANSIT COMPANY, INC., 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. )

Application No. 58811  
(Filed April 18, 1979)

O P I N I O N

Sterling Transit Company, Inc. (applicant) is a California corporation presently operating as a highway common carrier pursuant to a certificate of public convenience and necessity granted by Decision 80560, dated October 3, 1972, in Application No. 53210. The certificate authorizes transportation of general commodities generally between San Francisco Territory, Los Angeles Basin Territory, San Diego Territory and Sacramento, and intermediate points via major routes. The certificate contains certain operational restrictions and is registered with the Interstate Commerce Commission in Docket No. MC-97382 (Sub-No. 4).

Applicant has applied herein for a certificate of public convenience and necessity to authorize transportation of general commodities with the usual exclusions which would expand its operative rights by the addition of the following points:

1. Between all points and places within the following territories:
  - (a) Between Sacramento and points within 50 miles thereof;
  - (b) Between Salinas and points within 25 miles thereof; and

2. Between the following points and points within 10 miles of major highway routes between said points:

- (a) Los Angeles and Goleta,
- (b) Salinas and Santa Rosa,
- (c) Santa Cruz and San Rafael,
- (d) Santa Cruz and Carmel,
- (e) Holtville and Winterhaven,
- (f) Indio and Blythe, and
- (g) Sacramento and Floriston.

Applicant proposes to provide the service on a daily "on-call" basis, Monday through Friday, excluding Sundays and holidays. The service will be overnight.

Applicant is presently a party to Western Motor Tariff Bureau, Inc., Agent, tariff publications as are necessary within the territory covered by applicant's present certificate, both as to intrastate and interstate and foreign commerce operations. It proposes to participate in the same tariffs for rates and charges in the extended territory proposed to be served.

The application shows that applicant has operated between points in California in intrastate commerce for a number of years, that it has the necessary equipment, facilities and personnel to commence the additional service requested, and that it has the financial ability to provide the additional service. The application shows that as of December 31, 1977, applicant had current assets of \$3,826,568, current liabilities of \$1,385,580, and total stockholders' equity of \$1,102,928. The equipment list furnished with the application shows that applicant has 250 power units and a corresponding number of trailing units.

In support of its request, applicant alleges:

1. It has operated between points in California in intrastate commerce, for a period of many years.
2. It has also served the area embraced in its certificate of public convenience and necessity in interstate or foreign commerce for a period of many years.

3. It has received numerous requests from various shippers having movements of general commodities to, from and between the points and places located in applicant's proposed service area.
4. It is informed and believes and therefore alleges that there is a lack of the type of service now rendered by it in its present service area from, to and between the points herein sought to be served.
5. Its regular customers frequently have occasion to make shipments which require split deliveries where only one delivery could be effected within applicant's present service area and the other would be effected within the area proposed to be served. This either deprives applicant's regular customers of its specialized service on the entire shipment and/or places a rate burden upon these customers in dividing the portions of the shipment between carriers.
6. In order to provide the most economical service in the extended area, it is necessary that applicant be authorized to handle and commingle shipments moving in interstate or foreign commerce along with shipments moving in intrastate commerce, the same as it does in its present service area.
7. The granting of this application will have no significant effect upon the quality of the human environment.

A copy of the application was served upon 64 common carriers in compliance with the Commission's Rules of Practice and Procedure. Notice of the filing of this application also was published in the Federal Register. Protests were filed by Nielsen Freight Lines and Ditto Freight Lines. The protest of Nielsen Freight Lines was withdrawn on June 15, 1979. The protest of Ditto Freight Lines was withdrawn on July 30, 1979 following agreement of applicant to restrict the proposed operations from the transportation of commodities in containers or trailers; empty containers; and empty container chassis on certain proposed routes competitive with Ditto Freight Lines.

Findings of Fact

1. Applicant has the experience, equipment, and financial resources to institute and maintain 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 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.
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. A public hearing is not necessary.

Conclusion of Law

The Commission concludes that the application should be granted as set forth in the ensuing order. This grant will include all authority held by the applicant under its prior certificate which will be revoked.

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 Sterling Transit Company, Inc., 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 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. 80560, 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 OCT 23 1979, at San Francisco, California.

Commissioner JOHN E. BRYSON

Present but not participating.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

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President

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*Richard D. Howell*  
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*Clare T. Sedwick*  
\_\_\_\_\_  
*Lionel J. ...*  
Commissioners

Sterling Transit Company, Inc., 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 as follows:

- I. Between all points and places in the following territories and other areas named below:
  1. San Francisco Territory as described in Note A hereof.
  2. Los Angeles Basin Territory as described in Note B hereof.
  3. San Diego Territory as described in Note C hereof.
  4. Sacramento and all points and places within fifty (50) statute miles thereof, subject to the restriction in paragraph V.
  5. Salinas and all points and places within twenty-five (25) statute miles thereof, subject to the restriction in paragraph V.
- II. Between all points in the territories designated in paragraphs 1, 2 and 3 above and in the Sacramento and Salinas areas described in paragraphs 4 and 5 above, the latter two named areas being subject to the restriction in paragraph V hereof, via any and all highways including the right to serve all points and places located on or within ten (10) statute miles laterally of the following routes:
  1. State Highway 99 and Interstate 5 between Los Angeles and Sacramento.
  2. Interstate Highway 5 between Los Angeles and the California-Mexico Boundary Line.

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3. Beginning at the junction of State Highway 65 and 99; thence northerly along State Highway 65 to its junction with State Highway 198; thence easterly along State Highway 198 to its junction with State Highway 245; thence northerly along State Highway 245 to its junction with State Highway 180; thence westerly along State Highway 180 to its junction with State Highway 63; thence southerly along State Highway 63 to its junction with State Highway 198; thence westerly along State Highway 198 to its junction with State Highway 99.
4. Beginning at San Francisco thence via Interstate Highways 80 and 580 to its junction with State Highway 24 in the City of Oakland, thence via State Highway 24 to its junction with State Highway 4 near Pacheco; thence via State Highway 4 to its junction with State Highway 160, near Antioch, thence via State Highway 160 to Sacramento.
5. Beginning at San Francisco, thence via Interstate Highway 80 to its junction with Interstate Highway 580 in the City of Oakland; thence via Interstate 580 to its junction with Interstate Highway 205 near the City of Tracy; thence via Interstate 205 to its junction with Interstate Highway 5 near Manteca; thence via Interstate Highway 5 to Sacramento.
6. State Highways 198 and 41 between Lemoore Naval Air Station and the junction of said highways with State Highway 99.
7. Interstate Highways 15E and 15 between San Bernardino and San Diego.

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- III. Between all of the following named points including those points located within ten (10) statute miles laterally of the highway routes specified below, subject to the restriction in paragraph V.
1. U.S. Highway 101 between Los Angeles and Goleta.
  2. U.S. Highway 101 between Salinas and Santa Rosa.
  3. State Highway 17 between Santa Cruz and San Rafael.
  4. State Highway 1 between Santa Cruz and Carmel.
  5. Interstate Highway 8 between Holtville and Winterhaven.
  6. Interstate Highway 10 between Indio and Blythe.
  7. Interstate Highway 80 between Sacramento and Floriston.
- IV. Between the Los Angeles Basin Territory and the San Diego Territory, on the one hand, and El Centro and points within twenty-five (25) statute miles thereof, on the other hand, via Interstate Highways 8 and 10 and State Highway 86, including the right to serve all points located within ten (10) statute miles laterally of said routes.
- V. RESTRICTION: Carrier shall not transport commodities shipped in containers or trailers, empty containers, or empty container chassis between any of the points or over any of the routes which are subject to this restriction.
- VI. Through routes and rates may be established between any and all points authorized to be served.
- VII. 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.

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VIII. 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.
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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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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.

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## 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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