

CAS/RI

91441

MAR 18 1980

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of J & S APPLIANCE SERVICE,)
INC., a California corporation,)
doing business as J & S FREIGHT)
SERVICE, for an in lieu Certi-)
ficate of Public Convenience)
and Necessity pursuant to Sec-)
tion 1063, et. seq., of the)
Public Utilities Code, to oper-)
ate as a Highway Common Carrier)
for the transportation of prop-)
erty in intrastate commerce.)

Application No. 59180
(Filed October 3, 1979)

O P I N I O N

Applicant is presently operating as a highway contract carrier pursuant to a permit issued in File No. T-84,241. By Decision 90678 dated August 14, 1979 in Application 58676, the corporation was recently granted a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of general commodities, with certain exceptions, between all points and places in the Los Angeles Basin Territory; also between all points in the Los Angeles Basin Territory, on the one hand, and all points in San Diego County, as well as all points on and within 20 miles laterally of Interstate Highway 10 at and west of Indio in Riverside County, and points and places on and within 20 miles laterally of State Highways 86 and 111 in Riverside and Imperial Counties, on the other hand.

By this application, it now seeks an extension of said certificate authority which would generally include service to the following additional areas and points:

- (a) All points within San Diego County;

- (b) All intermediate points within a 10-mile lateral of Interstate Highways 5 and 15 lying between the boundaries of Los Angeles Basin Territory and San Diego County;
- (c) Between all points in San Diego County and:
 - (1) All points located within a 20-mile lateral of Interstate Highway 10 at and west of Indio (in Riverside County); and
 - (2) All points within a 20-mile lateral of State Highways 86 and 111 (in Riverside and Imperial Counties);
- (d) Between all points described in paragraph (b) above and:
 - (1) All points described in paragraphs (1) and (2) of (c) above.

Applicant now requests that it be granted an in-lieu certificate, pursuant to the provisions of Section 1063 of the Public Utilities Code, authorizing it to provide highway common carrier service to the additional areas and points proposed in this application, as well as to those points which it is currently authorized to serve under its existing certificate.

Applicant proposes to provide the expanded service herein requested on an "on-call" basis Monday through Friday, Saturdays and Sundays excluded and holidays excepted. Service will be overnight, with Saturday delivery service upon request.

Attached to the application is an equipment list which indicates that applicant's present fleet of vehicles consists of 2 vans, 7 tractors and 8 trailers. All of this operating equipment, applicant declares, will be available for use in serving the proposed additional areas and points. If additional equipment should be required, applicant states that it will be provided as the need arises.

Applicant asserts that it has the financial ability to provide and render the extended service proposed herein. As recited in Decision 90678, supra, applicant's balance sheet and income statements as of June 30, 1978 show total assets of \$214,613 and current liabilities of \$43,444 and that a net income of \$45,046 was realized from total operating revenue of \$389,899.

Applicant is currently a party to certain bureau tariffs published by the Western Motor Tariff Bureau, Inc., Agent, naming rates to cover its existing authority. In connection with service to the proposed additional areas and points, applicant declares it will establish rates which will substantially conform to those currently published in said bureau tariffs for its present scope of operations.

In support of its application, applicant alleges that it has been operating as a contract carrier within the additional area it now seeks authority to serve as a certificated carrier and, therefore, is aware of the needs of shippers and consignees located in the proposed service area. Applicant believes that its present operations in the extended area may possibly constitute a common carrier service. For this reason, applicant is seeking Commission approval of its proposal which would allow it to render a more complete transportation service and thereby better meet the increasing demands of its present customers for such a service.

Applicant requests a waiver from certain provisions of the Commission's Rules of Practice and Procedure which require it to mail a copy of its application to various highway common carriers which might be in competition with applicant in the proposed service area. It points out that a copy of the verified application was mailed to the California Trucking Association for its information and publication in its statewide periodical, "CALTRUX". Notice of the filing of the subject application appeared in the Commission's Daily Calendar of October 9, 1979. No protest to the application has been received. Applicant asks that its application be granted and that an in-lieu certificate be issued by ex parte order of the Commission.

After consideration, the Commission finds that:

1. Applicant has the experience, equipment, personnel and financial resources to institute and maintain the proposed expanded transportation service.
2. Public convenience and necessity require that the expanded transportation service proposed by applicant be authorized.
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. The requested waiver from the Commission's Rules of Practice and Procedure should be authorized.
5. A public hearing is not necessary.

On the basis of the foregoing findings, the Commission concludes that the application should be granted as set forth in the ensuing order. The order which follows will provide for the issuance of an in-lieu certificate, in appendix form, and the revocation of the certificate presently held by applicant. For the purpose of clarification and application, certain traverse routes will be specified in connection with paragraphs D-1 and D-2 of the in-lieu certificate authority granted herein.

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 J & S Appliance Service, Inc., a corporation, doing business as J & S Freight Service, 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 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.

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 90678 in Application 58676, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).


4. Applicant is granted relief from the Commission's Rules of Practice and Procedure as requested in the application.

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


Dated MAR 18 1980, at San Francisco, California.



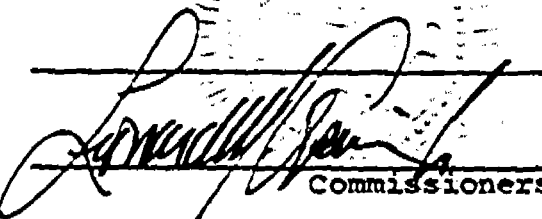
President



Vernon L. Strickland



Robert W. Steele



Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

J & S APPLIANCE SERVICE, INC., a California corporation, doing business as J & S FREIGHT SERVICE, 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:

- A. Between all points and places within the Los Angeles Basin Territory as described in Note A hereof.
- B. Between all points and places within San Diego County.
- C. Between all points in the territory and county named in paragraphs A and B above, serving all intermediate points located on or within ten (10) statute miles laterally of Interstate Highways 5 and 15.
- D. Between all points described in paragraphs A, B and C above, and:
 1. Points located on or within twenty (20) statute miles laterally of Interstate Highway 10 at and west of Indio in Riverside County; (See Note 1)
 2. Points located on or within twenty (20) statute miles laterally of State Highways 86 and 111 in Riverside and Imperial Counties. (See Note 1)

Note 1: Carrier may use any of the following highways as traverse routes in connection with the authority described in paragraphs D-1 and D-2 above: State Highways 71, 74, 76, 78, 79, 94, 98 or Interstate Highway 8.

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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.

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6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

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 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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