

ORIGINAL

Decision No. 36311

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BERKELEY TRANSPORTATION COMPANY, a)
corporation, for authority to alternate) Application No. 22956
motor vehicle equipment with boats and)
barges in the transportation of property)
for-hire.)

In the matter of the Application of)
BERKELEY TRANSPORTATION CO., a corpor-)
ation, for permission to operate motor)
trucks as a common carrier of property) Application No. 24632
between Alameda, Berkeley, Emeryville)
and Oakland, on the one hand, and San)
Francisco, on the other hand, and be-)
tween San Francisco and San Quentin as)
an alternate route by water.)

WALLACE WARE and EDWARD M. BEROL for
applicant in Application No. 22956.

GWYN H. BAKER for applicant in Application
No. 24632.

REGINALD L. VAUGHAN for Pacific Motor
Tariff Bureau, protestant in both
applications.

DOUGLAS BROOKMAN and ROBERT ANDERSON for
Sausalito-Mill Valley and San
Francisco Express Co., protestant
in both applications.

A. J. GAUDIO for Southern Pacific Company
and Pacific Motor Trucking Company,
protestants in both applications.

F. M. MOTT for Merchants Express Corporation,
protestant in Application No. 22956.

A. E. GLICKMAN for Richmond Navigation and
Improvement Company, interested party
in Application No. 24632.

BY THE COMMISSION:

O P I N I O N

By application No. 22956, filed on September 1, 1939, the
Berkeley Transportation Company seeks authority to operate motor

vehicle equipment alternatively with its existing service by vessel in the transportation of property as a common carrier between San Francisco, on the one hand, and Berkeley, Emeryville and San Quentin Prison, on the other hand. ⁽¹⁾ By Application No. 24632, filed on December 12, 1941, the Berkeley Transportation Company seeks temporary authority to operate motor trucks as a highway common carrier between San Francisco, on the one hand, and Alameda, Berkeley, Emeryville, Oakland and San Quentin, on the other hand, as an alternative service to its existing operations between said points by vessel.

The foregoing matters were consolidated for hearing and were heard at San Francisco before Examiner Broz on December 22 and 26, 1941, at which time testimony and evidence were received, the matters were submitted upon the record therein and are now ready for decision.

The Pacific Motor Tariff Bureau, Sausalito-Mill Valley and San Francisco Express Co., Southern Pacific Company, Pacific Motor Trucking Company and Merchants Express Corporation appeared as protestants while the Richmond Navigation and Improvement Company appeared as an interested party.

At the hearing on December 22, 1941 the Berkeley Transportation Company, applicant in both proceedings represented through its president, Mr. J.M. Atthowe, that it had no desire to offer evidence in Application No. 22956 and that if the Commission approved the establishment of temporary truck service sought in Application No. 24632, the earlier application could be dismissed

(1) A public hearing was had in this application on March 7, 1940, but the matter was taken off the Commission's calendar at the applicant's request and no further proceedings were had therein.

This opinion, therefore, will deal with evidence offered in the more recent application.

Application No. 24632, as originally filed, seeks temporary authority on behalf of the Berkeley Transportation Company to operate motor trucks as a highway common carrier during the present national emergency, for service alternative and supplemental to that now conducted by vessel for the transportation of property between San Francisco, on the one hand, and designated East Bay cities and San Quentin prison, on the other hand. By a supplemental application filed at the hearing on December 26, 1941, the foregoing proposal was substantially restricted by the applicant and as amended, now contemplates the operation of motor truck service as a highway common carrier only between the applicant's San Francisco dock and its Berkeley dock in depot-to-depot service. (2)

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- (2) Applicant and protestants entered into a written stipulation at the hearing on December 26, 1941 under which protestants withdrew their objection to the granting of Application No. 24632 in consideration of applicant's agreement;
- (a) To eliminate from said application all request for authority to operate motor trucks except between its dock in San Francisco and its dock in Berkeley;
 - (b) To refrain from operating said trucks for pickup or delivery service in the cities of San Francisco, Emeryville or Berkeley;
 - (c) To make the authority for new truck service conditioned upon applicant's continued operation of vessel service between said docks and in the event that vessel service is abandoned, to cease the operation of truck service;
 - (d) To operate said trucks in dock-to-dock service during the period of the present national emergency only or until the United States Government has returned two barges which were requisitioned from applicant on December 10, 1941;

(continued on next page)

Applicant's president testified that his company owns two trucks and leases additional automotive equipment from the Berkeley Port Terminal Company, the latter being a separate corporation operating as a permitted highway carrier under authority of this Commission. The witness stated that in the conduct of its business the Berkeley Transportation Company operates barges and tug boats between East Bay points and San Francisco and between San Francisco and San Quentin Prison. These barges, he said, also carry interstate commerce between said points and foreign commerce from and to vessels along the San Francisco waterfront and in addition, transport shipments of cement from Redwood City to points on San Francisco Bay. According to the witness, the United States Government requisitioned two of applicant's barges on December 10, 1941, leaving it only four barges to carry on all of its vessel operations above described. As a result applicant contends that it has experienced a shortage of vessel equipment for the transportation of merchandise traffic between San Francisco and Berkeley.

According to the application as amended applicant proposes to operate one motor truck daily via the San Francisco-Oakland Bay Bridge between its dock in San Francisco and its dock in Berkeley, alternating said truck service with regular vessel service between the same points whenever the need for additional transportation facilities may arise between said

Footnote No. 2 continued.

- (e) To agree that applicant will never urge the granting of temporary authority to operate trucks in the instant proceeding as a basis for granting permanent authority to operate as a highway common carrier between said points.

points. No specific time schedule is proposed it being applicant's purpose to render "on-call" service whenever necessary to meet transportation requirements.

In conclusion the application, as amended, seeks to apply to the proposed transportation of property by motor vehicle, the same rates, rules and regulations as are now applicable to the movement of property via vessel under dock-to-dock rates published in applicant's vessel tariffs on file with the Commission.

Although protestants offered evidence and testimony at the original hearing on December 22, 1941 in opposition to granting of authority sought by Application No. 24632, they subsequently negotiated a mutually satisfactory stipulation with the applicant whereby the proposed truck service would be restricted to operation between applicant's San Francisco dock and its Berkeley dock thus eliminating its request to operate truck service between San Francisco, on the one hand, and Emeryville, Oakland, Alameda and San Quentin Prison, on the other hand. Pursuant to this stipulation protestants withdrew their objection to the granting of Application No. 24632, as amended.

The evidence of record indicates that there is a public need for uninterrupted common carrier service for the transportation of property between applicant's docks in San Francisco and Berkeley; that applicant has rendered common

carrier service by vessel between these points for a number of years and is now confronted with the possibility of abandonment of said service by circumstances over which it has no control; that alternative truck service by the applicant, supplemental to its vessel service, is necessary in the public interest and that temporary authority sought herein is justified.

We are of the opinion and find that the application should be granted subject to the conditions and restrictions voluntarily assented to by the applicant and described in the written stipulation entered into at the hearing. In all other respects Application No. 24632 will be denied.

Based upon applicant's oral representations that no further evidence would be offered in support of Application No. 22956 and that applicant does not desire to prosecute the application further, that proceeding will be dismissed.

O R D E R

Public hearings having been had in the above-entitled proceedings, evidence having been received and the proceedings submitted for decision and based upon the Commission's finding

in the foregoing opinion that public convenience and necessity so require:

IT IS ORDERED that a temporary certificate of public convenience and necessity be and it is hereby granted to the Berkeley Transportation Company, a corporation, to operate as a highway common carrier, as defined by Section 2-3/4 of the Public Utilities Act, for the transportation of property between its dock in San Francisco and its dock in Berkeley, in service alternate and supplemental to its existing transportation service by vessel between the same points subject to the following restrictions:

1. The truck service herein authorized shall not be used to perform store-door pickup or delivery service in the cities of San Francisco, Emeryville, or Berkeley, and shall be operated only between applicant's dock in San Francisco and its dock in Berkeley.
2. Vessel service of the Berkeley Transportation Company shall continue in operation between said docks and in the event said vessel service is abandoned, the authority herein granted shall become void.
3. The temporary truck service herein authorized shall continue for the period of the present national emergency unless sooner revoked or extended by further order of the Commission.
4. Applicant shall never urge the temporary authority herein granted as justification for a permanent certificate to operate as a highway common carrier between said docks.
5. Applicant shall never claim before this Commission or any court or other public body a value for the temporary authority herein granted in excess of the actual cost thereof.

IT IS FURTHER ORDERED that in the exercise of the foregoing certificate of public convenience and necessity, the Berkeley Transportation Company shall comply with the following service regulations:

1. File a written acceptance of the temporary certificate herein granted within fifteen (15) days from the effective date hereof.
2. File within sixty (60) days from the effective date hereof, on not less than one (1) day's notice to the Commission and the public, amendments to its tariffs establishing its dock-to-dock vessel rates for the highway common carrier service authorized herein, in a manner satisfactory to the Commission.
3. Subject to the Commission's right to change said route at any future time, the operations herein authorized shall be conducted over and along the following route:

Beginning at applicant's dock in San Francisco, thence via the San Francisco-Oakland Bay Bridge to applicant's dock in Berkeley and returning over the same route in the reverse direction.

4. Applicant shall comply with the provisions of the Commission's General Order No. 93-A particularly with respect to leases of automotive equipment and other provisions of said order pertinent to highway common carrier operations.

IT IS FURTHER ORDERED that Application No. 24632, in all other respects, be and it is hereby denied.

IT IS FURTHER ORDERED that Application No. 22956 be and it is hereby dismissed.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of April, 1943.

Francis D. Habenne
A. Baker
Justice F. Cramer
Richard Chase
Wm. D. ...
COMMISSIONERS