

ORIGINAL

Decision No. 40336

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
H. M. JUDSON, doing business as)
"Marin & Sonoma Furniture Delivery",)
for a certificate of public convenience)
and necessity to operate an automotive)
truck service as a common carrier for)
the transportation of new furniture,)
etc., from San Francisco to Sausalito,)
San Rafael, Sebastopol, Santa Rosa,)
Healdsburg, Napa, Calistoga,)
Garberville, Eureka, Arcata, and all)
intermediate points.)

Application No. 27392

In the Matter of the Application of)
GEORGE A. BAKER, doing business as)
Baker & Stanton Transfer and Storage)
Co., for a certificate of public con-)
venience and necessity to operate an)
automotive truck service as a highway)
common carrier for the transportation)
of new furniture and new store and)
office fixtures uncrated between Eureka)
and San Francisco Bay points and certain)
intermediate and off-route points.)

Application No. 27477

JOHN O'DONNELL, for applicant in Application 27392,
and interested party in Application 27477.
BEROL & HANDLER, by MARVIN HANDLER, for applicant
in Application 27477, and interested party
in Application No. 27392.
E. L. VAN DELLEN, for SOUTHERN PACIFIC COMPANY,
NORTHWESTERN PACIFIC RAILROAD COMPANY,
PACIFIC MOTOR TRUCKING COMPANY, and
PETALUMA-SANTA ROSA RAILROAD COMPANY,
protestants to both applications.
MELVIN A. PIXLEY, protestant to both Applications.

O P I N I O N

By Application No. 27392, as amended, H. M. JUDSON, an
individual doing business as Marin & Sonoma Furniture Delivery,
requests a certificate authorizing highway common carrier service
for the transportation of new furniture and other new household

(1)
commodities listed in the margin, uncrated, unpacked and unwrapped, from San Francisco and Oakland, on the one hand, to Healdsburg, Guerneville, Sonoma, Calistoga and all intermediate points, and points within five miles laterally of the route proposed to be used
(2)
between such points, except Napa, on the other hand, with a return movement of rejected shipments.

By Application No. 27477, as amended, George A. Baker, doing business as Baker & Stanton Transfer & Storage Co., requests a certificate authorizing a highway common carrier operation for the transportation of new and uncrated furniture and other articles
(3)
listed below between Eureka and San Francisco Bay points and points

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- (1) The new articles which applicant Judson proposes to transport uncrated, unwrapped and unpacked are described as follows:

Furniture, store fixtures, office fixtures, grandfather clocks, fireplace equipment, gas, oil, and wood heaters, sewing machines, bassinets, hampers, baby buggies, play pens, ice, electric, and gas refrigerators, kitchen utility cabinets, vacuum cleaners, radios, phonographs, radio-phonograph combinations, musical instruments, stoves, ranges, baby carriages, deep freezers, washing machines, mangles, ironers, garden and porch furniture.

- (2) The proposed route of operation of applicant Judson would be as follows:

Between San Francisco and Healdsburg via U. S. Highway No. 101; beginning at the junction of U. S. Highway 101 and State Highway No. 37, thence along said State Highway No. 37 to its junction with State Highway No. 29 at Napa; thence along State Highway No. 29 to Calistoga; beginning at the junction of State Highways No. 37 and No. 12, thence along said State Highway No. 12 to Sonoma; beginning at the junction of U. S. Highway No. 101 and State Highway No. 12 at Santa Rosa, thence along said State Highway No. 12 to Guerneville and Monte Rio, serving Rio Nido by diversion over unnumbered public highway.

- (3) Applicant Baker proposes to transport the following uncrated and unpacked new articles:

Furniture, store fixtures, office fixtures, radios, phonographs, radio phonograph combinations, musical instruments, restaurant and bar furniture and fixtures, stoves and refrigerators.

within 25 miles laterally of the routes proposed to be used in conducting such operation, as more particularly set forth in the margin. Baker is presently providing a highway common carrier service for the transportation of second hand household, office, store and restaurant furniture and fixtures between the same points and over the same routes under a certificate heretofore issued to him by this Commission.

A public hearing in these matters was held before Examiner Paul at San Francisco on February 18 and 19, 1947, and they were submitted on the record, which was consolidated.

Application No. 27392, H. M. Judson

Under her proposed plan of operation, applicant Judson would transport shipments from stores in San Francisco or Oakland to the homes of the purchasers of the commodities at the various points proposed to be served. Rejected shipments would be returned by her. She also proposes to transport the same commodities moving from manufacturers or wholesalers at San Francisco or Oakland to retail stores established at the points involved. The distinction between the two types of service is an accessorial service in connection with the commodities transported to the homes of the purchasers. This accessorial feature contemplates the placement or arrangement of the various articles at the request of the consignee. Shipments to stores would be subject to sidewalk delivery.

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- (4) Applicant Baker proposes operations between Eureka, and San Francisco Bay points, and intermediate points, particularly as follows:
- (a) Between Eureka and Santa Rosa and intermediate points;
 - (b) Between Eureka and Santa Rosa and intermediate points, (excluding Santa Rosa) on the one hand, and a point at the southerly city limits of Santa Rosa, San Francisco, Oakland, Richmond and intermediate points, on the other hand, over and along the following route and twenty-five (25) miles laterally therefrom, to-wit:

Over U. S. Highway No. 101 between Eureka and San Francisco, thence over U. S. Highway No. 40 to Richmond, thence over Richmond-San Rafael Ferry and connecting roads or highways to San Rafael.

For that transportation which includes an accessorial service applicant proposes to charge distance rates, which in general apply as piece or set rates, with some exceptions in regard to heavy articles on which weights in excess of certain minimums would be charged at a rate on a weight basis for the excess. In those cases where no accessorial service is performed in connection with transportation, the proposed distance rates are on a weight basis in cents per hundred pounds, excepting certain articles of upholstered or overstuffed furniture on which rates on a piece or set basis are proposed.

Applicant Judson testified that she has been conducting such operation since 1940 under a highway contract carrier permit beginning with one truck and is now using four van type trucks with a rated capacity of one and one-half tons. Her office and headquarters are maintained at Corte Madera, where the equipment is garaged. She has nine employees, including four drivers, four helpers and a manager. She stated that she provides service for a limited number of shippers and had had many requests to provide the service for other shippers which she refused because of her limited operative authority. She has made deliveries at points along the Redwood highway as far north as Eureka.

Application No. 27477 - George A. Baker

This applicant now provides a service between Eureka and San Francisco Bay points, transporting used household goods under a certificate which he desires expanded to include the new articles described. He stated that he has been conducting this operation under such certificate since 1939. The rates which would be charged for his proposed new service are in general at the prescribed minimum level for such commodities as established in the minimum rate orders of the Commission. Applicant Baker testified that he had

had many requests to transport the new commodities involved. The equipment he now uses would be sufficient to handle the expected additional traffic. He stated that the preponderant movement of commodities now transported is southbound from Eureka, whereas the principal movement of new commodities would be northbound, thereby making for a better load factor on his equipment.

Public Witness Testimony

Four public witnesses testified in support of the proposals of the two applicants, two of them being engaged in the manufacture of mattresses, box springs, couches, beds and similar commodities. Another witness is traffic manager and consultant for a factory in Oakland engaged in the manufacture of upholstered furniture, and the other is the traffic manager of the Retail Furniture Association of California. In general this testimony was to the effect that the firms represented make shipments at frequent intervals from San Francisco and Oakland to Eureka and points intermediate to Eureka and Santa Rosa; that one of the firms uses rail and its subsidiary truck facilities except for shipments called for by consignees; that use of truck facilities would obviate crating and packing of shipments which would result in economies of labor, scarce crating materials, time in transit and damage to shipments, and that they have a need for and would use the service proposed by applicant Baker. One witness stated that in his opinion use of such a service would increase the sales volume of his firm and stressed the point of a need therefor because his company has no facilities for crating its products, the materials for which are difficult to obtain. Another witness testified that the majority of shipments of new furniture received at San Francisco from Southern California manufacturers and destined to points north of San Francisco are uncrated and that there are no facilities in San Francisco for crating such

shipments. He further stated that these shipments are transported by the consignees.

These witnesses also testified in substance and to the effect that the same facts applied to their needs for a truck service to points along the Redwood Highway from San Francisco and Oakland to Healdsburg, such as proposed by applicant Judson.

Protestants

While the granting of the applications was opposed by Southern Pacific Company, Northwestern Pacific Railroad Company, Pacific Motor Trucking Company, Petaluma-Santa Rosa Railroad Company and Melvin A. Pixley, no showing was made as to the services provided by them. Their protests were limited to a cross examination of applicants and applicants' witnesses.

Summary and Conclusions

The evidence of record is clearly conclusive that there is a public need for additional service from or between Oakland and San Francisco, on the one hand, and points on the Redwood Highway to and including Eureka and certain off route points in Marin County, on the other hand. The applications, therefore, must be denied in so far as they propose service to, from or between the other points.

The rates proposed by applicant Judson are inconsistent with the minimum rates established by the Commission for carriers generally for transportation of the character proposed in her application. The minimum rates established were prescribed after extensive public hearings and are on a weight basis in so far as they relate to transportation of that type.

(Rates of All Common and Highway Carriers. 41 C.R.C. 671, as amended).
Many of her proposed rates are on a "piece" basis, that is, rates in cents for each article or designated group of articles. Applicant Judson has not shown that the proposed "piece" rates would produce charges no lower than those produced by the established minimum rates; that rates lower than those prescribed as minimum rates are justified for the service in question, or that a weight basis would be improper for that service. Unless and until such showing is made, she will be required to maintain rates no lower than, and in the same form as, those provided by outstanding minimum rate orders.

With respect to services accessorial or incidental to transportation, applicant Judson will be required to describe the nature of all such services in her tariffs. Where these services are authorized by the Commission's minimum rate orders to be rendered without additional charge her tariffs may contain similar provisions. However, for other accessorial services she will be required to state the charge therefor in her tariffs.

The rates proposed by applicant Baker are, in general, at the prescribed minimum level for the commodities involved as established in the minimum rate orders of the Commission.

Applicant Judson is hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

A public hearing having been held in the above entitled proceedings, evidence adduced, the matters duly submitted on the record, and the Commission being fully informed therein, and finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Hertha M. Judson authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of the following new articles: furniture, store fixtures, office fixtures, grandfather clocks, fireplace equipment, gas, oil, and wood heaters, sewing machines, bassinets, hampers, baby buggies, play pens, ice, electric, and gas refrigerators, kitchen utility cabinets, vacuum cleaners, radios, phonographs, radio-phonograph combinations, musical instruments, stoves, ranges, baby carriages, deep freezers, washing machines, mangles, ironers, garden and porch furniture; from San Francisco and Oakland, on the one hand, to Healdsburg and points between San Francisco and Healdsburg including Sausalito, Mill Valley, Corte Madera, Belvedere, Larkspur, Kentfield, Ross, San Anselmo, San Rafael, Hamilton Field, Fairfax, Novato, Petaluma and Santa Rosa, on the other hand, with a return movement of rejected shipments.

(2) That in providing service pursuant to the certificate herein granted, applicant Judson shall comply with and observe the following service regulations:

- a. Applicant Judson shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant Judson shall establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective, appropriate tariffs and time tables.

- c. Subject to the authority of this Commission to change or modify them by further order, applicant Judson shall conduct operations pursuant to the certificate herein granted over and along the following routes:

Over the San Francisco Bay bridge between Oakland and San Francisco; over U. S. Highway No. 101 between San Francisco and Healdsburg and the lateral route through Sausalito, and public highways to points specified which are off U. S. Highway No. 101.

(3) That a certificate of public convenience and necessity is hereby granted to George A. Baker authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of the following new articles: furniture, store fixtures, office fixtures, radios, phonographs, radio phonograph combinations, musical instruments, restaurant and bar furniture and fixtures, stoves and refrigerators between Eureka and Santa Rosa and intermediate points; between Eureka and Santa Rosa and intermediate points, on the one hand, and a point at the southerly city limits of Santa Rosa, and San Francisco and Oakland and intermediate points, on the other hand.

(4) That in providing service pursuant to the certificate herein granted, applicant Baker shall comply with and observe the following service regulations:

- a. Applicant Baker shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant Baker shall establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective, appropriate tariffs and time tables.
- c. Subject to the authority of this Commission to change or modify them by further order, applicant Baker shall

conduct operations pursuant to the certificate herein granted over and along the following routes:

Over U. S. Highway No. 101 between Eureka and San Francisco with use of the lateral route via Sausalito; over the San Francisco Bay bridge between San Francisco and Oakland.

(5) That Application No. 27392 (H. M. Judson) and Application No. 27477 (George A. Baker) are in all other respects hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, May 27, 1947.

Harold A. Hill
Justus F. Coakley
Wesley Powell
R. J. [unclear]
Kenneth [unclear]

COMMISSIONERS