

ORIGINAL

Decision No. 42428

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
AL BLASI, for a certificate of public )  
convenience and necessity to operate )  
as a highway common carrier for the ) Application No. 30212  
transportation of lumber and forest )  
products between various points and )  
places in California. )

Willard A. Johnson, for applicant.

W. A. Gregory and William Meinhold, for Northern Pacific  
Railroad Company and Southern Pacific Company; Clair W.  
MacLeod and A. T. Nelson, for California Western Railroad  
and Navigation Company; William F. Brooks, for Atchison  
Topeka and Santa Fe Railway; George W. Hirni, for Willig  
Freight Lines, protestants.

Marvin Handler, for Hawkey Lumber Transportation and Butler  
Freight Service, interested parties.

O P I N I O N

Applicant (hereinafter sometimes referred to as Blasi) seeks a certificate of public convenience and necessity authorizing operation as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of lumber and forest products between certain points on or adjacent to U. S. Highways 101, 99, 40 and 50, State Highway 1 and other connecting roads, with the right to serve a twenty-five mile lateral area, which routes are bounded on the north by Arcata and Redding, and on the south by Monterey, Salinas and Fresno, subject to certain specified restrictions.

Public hearings were held at San Francisco on June 13 and 14, 1949, before Examiner R. K. Hunter, after which the matter was submitted.

Applicant, for many years, has been engaged continuously

as a permitted carrier, in the transportation of lumber between points in California. At the beginning the operation was small but with the growth of the lumber industry in this state has increased in size and area covered. Due to the increasing public demand for his service, applicant has become doubtful as to the exact scope of the operation that may be performed under existing permits and believes that his operation should now be certificated in order to perpetuate it in the public interest.

It appears that the applicant possesses the requisite financial ability, equipment and experience to adequately provide the proposed service.

Exhibits were introduced showing the extent and scope of the prior operation together with the routes traversed and the location of the principal shippers and receivers of lumber regularly and frequently using the service. These exhibits were supported and supplemented by testimony of applicant and by shipper witnesses. No useful purpose would be served in here minutely analyzing this evidence. The record of prior service is not to be considered as establishing a "grandfather" right but only to show the extent of the demand and the public need. It appears that Blasi has transported substantial quantities of lumber throughout the proposed territory. The mills being at fixed points and the destinations, in part at least, being in permanent locations, the routes followed have taken on a regular pattern.

It is clear from the record that this type of operation is essential to the lumber industry and from the statements of shipper witnesses it appears that Blasi's service has been reliable

and satisfactory to its users and they not only desire to have it continued to meet their needs, but will use it if it is certificated. However, it appears that the propriety of the continuance of an operation of this scope under permits is at least questionable. Nevertheless, the evidence shows its perpetuation would be in the public interest.

Due to previous decisions of this Commission, the request for a right to serve a lateral within 25 miles of the proposed route does not require extended discussion. The record shows that due to the location of mills, yards and construction projects at destination points it would not be possible for any such carrier to adequately serve the lumber industry's transportation needs without being able to serve territory lateral to the principal highways. The lateral rights requested do not appear to be more than are reasonably required for that purpose.

The California Western Railroad and Navigation Company protested the granting of a certificate which would include the routes presently served by its own rails and those served in conjunction with Willig Freight Lines under a joint arrangement by virtue of which through truck-rail rates are named applying from Caspar, Mendocino, Juan Creek and Rockport, all in the vicinity of Fort Bragg on State Highway 1.

Willig Freight Lines protested the granting of authority to establish certificated service over and along its presently authorized route north of Valley Ford on State Highway 1, north of Petaluma on U. S. Highway 101 and along State Highway 28 between Cloverdale and the Coast.

The Southern Pacific Company and Northwestern Pacific Company protested the granting of a certificate authorizing service between any two points served by rail.

None of these protestants called any public witnesses in support of their position. It should be noted that Willig Freight Lines has not been expressly authorized in its certificate to serve any territory lateral to its route nor has such authority been requested. Between points served by rail it is our conclusion that there is a place for both rail and truck services.

It should be kept in mind that applicant, as a permitted carrier, may at the present time provide the type of service contemplated by the Highway Carriers' Act not only to the territory presently served by protestants but also all territory lateral thereto.

After carefully considering the entire record, it is our conclusion and we so find that public convenience and necessity require the establishment of the proposed service over the routes and between the points described in the order.

Al Blasi 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

The above-numbered application having been filed, hearings having been held, and based upon evidence of record and the conclusions and findings set forth in the opinion,

IT IS ORDERED:

(1) That Al Blas1 is hereby granted a certificate of public convenience and necessity authorizing operation as a highway common carrier as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of lumber and forest products, as described in Highway Carriers' Tariff No. 2,

(a) Between the points on or within the following routes and laterals:

- (1) U. S. Highway 101 between Arcata and Petaluma,
- (2) State Highway 1 between U. S. Highway 101 north of Cummings and Valley Ford,
- (3) An unnumbered road between Valley Ford and Petaluma,
- (4) With the right to serve all points within a twenty-five (25) mile lateral of above routes, and
- (5) Intermediate points on or within the above routes and lateral.

(b) Between the points described in above paragraph (1), on the one hand, and on the other hand, the points on or within the following routes and laterals:

- (1) U. S. Highway 101 between Petaluma and Salinas,
- (2) State Highway 1 between Valley Ford and Monterey,
- (3) U. S. Highways 99, 99W, and 99E, between Redding and Fresno,

- (4) State Highway 20 between U. S. Highways 101 and 99E,
- (5) State Highway 24 between Yuba City and Oakland,
- (6) State Highway 28 between Geyserville and Calistoga,
- (7) State Highway 29 between Calistoga and Napa,
- (8) State Highway 12 between Santa Rosa and Lodi,
- (9) State Highway 37 between U. S. Highway 101 and State Highway 12,
- (10) State Highway 48 between State Highway 37 and U. S. Highway 40,
- (11) U. S. Highway 40 between Sacramento and San Francisco
- (12) State Highway 4 between U. S. Highway 40 and Stockton,
- (13) U. S. Highway 50 between Stockton and San Francisco,
- (14) State Highway 152 between U. S. Highways 101 and 99,
- (15) With the right to serve all points within a twenty-five (25) mile lateral of above routes, and
- (16) Intermediate points on or within above routes and lateral.

(c) All subject to the following restrictions:

- (1) Applicant shall not transport any shipments having both origin and destination north of Fields Landing, and
- (2) Applicant shall not transport any shipment which carries a transportation charge lower than that applicable to a shipment of 20,000 pounds.

(2) In providing service pursuant to the certificate herein granted, there shall be compliance with the following service regulations:

- (a) Applicant shall file a written acceptance of the certificate herein granted within not to exceed 30 days after the effective date hereof.

- (b) Applicant shall, within 90 days after the effective date of this order and upon not less than 5 days' notice to the Commission and the public, establish the service herein authorized and comply with the provisions of General Orders Nos. 80 and 93-A (Part IV), by filing and making concurrently effective, tariffs and time schedules satisfactory to the Commission.

The effective date of this order shall be 20 days after the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of October, 1949.

R. E. Anderson  
Justus Z. Gaeuen  
Wm. H. Towell  
Harold P. Hula  
Wm. H. Potter  
COMMISSIONERS