

ORIGINAL

Decision No. 44873

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 RUSH SWOAPE, an individual, for a )  
 certificate to operate as a highway ) Application No. 30308  
 common carrier for the transportation )  
 of property. )

In the Matter of the Application of )  
 ELMER DAIGH and W. H. STEWART, dba )  
 DAIGH & STEWART TRUCK CO., a copart- ) Application No. 30309  
 nership, for a certificate to operate )  
 as a highway common carrier for the )  
 transportation of property. )

In the Matter of the Application of )  
 OILFIELDS TRUCKING COMPANY, a corpora- )  
 tion, for a certificate to operate as ) Application No. 30691  
 a highway common carrier for the trans- )  
 portation of property. )

In the Matter of the Application of )  
 JOHN A. LACEY, doing business under )  
 the firm name of LACEY TRUCKING COMPANY, ) Application No. 30806  
 for a certificate to operate as a )  
 highway common carrier for the trans- )  
 portation of property. )

Edward M. Berol for Rush Swoape and Daigh & Stewart  
 Truck Co., petitioners; Phil Jacobson for Oilfields Trucking Com-  
 pany and John A. Lacey; E. L. H. Bissinger for Southern Pacific  
 Company; Donald Murchison for Pacific Freight Lines and Pacific  
 Freight Lines Express, interested parties.

OPINION ON REHEARING

By Decision No. 44262, dated May 26, 1950, on Applica-  
 tions Nos. 30691 and 30806, Oilfields Trucking Company and Lacey  
 Trucking Company were each granted authority to transport "property  
 necessary or incidental to the establishment, maintenance, or dis-  
 mantling of oil, gas, or water wells, pipe lines, refineries, and  
 cracking or casing-head plants, equipment and material used in  
 construction, and equipment used in farming, \* \* \*" over certain

specified routes and off-route points which, generally, covered the entire State of California. This authority was subject to the following restrictions:

- "(a) Applicant shall not transport any shipment which shall carry a charge lower than that applicable to a shipment of 10,000 pounds.
- "(b) Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil-well site or originating at or destined to a storage yard."

By Decision No. 44263, dated May 26, 1950, on Applications Nos. 30308 and 30309, Rush Swoape and Daigh & Stewart Truck Co. each were authorized to transport "property necessary or incidental to the establishment, maintenance, or dismantling of oil or gas wells, pipe lines, refineries, and cracking or casing-head plants, between Los Angeles, on the one hand, and Paso Robles and Sacramento, on the other hand, and intermediate points along and laterally within fifty miles of U. S. Highways 101 and 99, and including points within a radius of fifty miles of the city halls of said cities \* \* \*". This authority was subject to a 10,000-pound restriction and also to a restriction as to transporting between certain specified points in the San Francisco area and in the Sacramento, Stockton, and San Jose areas.

Under date of June 5, 1950, Rush Swoape and Daigh & Stewart Truck Co. filed a petition for rehearing upon the grounds that the findings in the two above-mentioned decisions were inconsistent and that, therefore, the Commission had erred. On June 23, 1950, Oilfields Trucking Company and Lacey Trucking Company filed an answer to this petition requesting that the Commission deny the rehearing on the grounds that no error had been committed and on the further grounds that Rush Swoape and Daigh & Stewart Truck Co.

were not proper parties to request a rehearing inasmuch as they did not enter an appearance in the Oilfields and Lacey hearings. Subsequently, on July 1, 1950, Pacific Freight Lines likewise petitioned for reconsideration. The Commission, by its order of July 11, 1950, granted a rehearing in the matter and the rehearing was held on August 2, 1950, at Bakersfield, California, before Examiner Syphers, at which time additional evidence was adduced and the matter submitted. It is now ready for decision.

One of the partners of Daigh & Stewart Truck Co. presented testimony and exhibits at this hearing. Exhibit 1-A is a statement showing representative shipments of oil- and gas-well, refinery, and pipe-line equipment, and materials hauled during the period from January 1, 1949, to June 30, 1950, between points other than those authorized in Decision No. 44263. Exhibit 2-A is a list of shipments of materials used in construction, and equipment used in farming, for the same period, and Exhibit 3-A shows all revenues of Daigh & Stewart Truck Co. and the relative percentages of revenues derived from commodities hauled between the points recommended in Decision No. 44263 and those commodities transported between points which were not authorized in that decision. These figures may be tabulated as follows:

Gross revenue for period 1/1/49 to 6/30/50	\$544,576.03	100%
Revenue from gas & oil well supplies between points recommended in Decision No. 42263	370,477.61	68%
Revenues from commodities between points which were not authorized	174,098.42	32%

Rush Swoape, the other applicant, presented testimony and exhibits relating to his operations. Exhibit 4-A shows representative shipments handled during the period October, 1949,

through June, 1950, which shipments were not authorized by Decision No. 44263, while Exhibit 5-A shows the allocation of revenues between shipments authorized by the above-mentioned decision and those not authorized. From this exhibit the following table has been formulated:

Total revenue for the 18-month period October, 1949, through June, 1950,	\$214,616.36	100%
Revenue derived from shipments to points authorized by Decision No. 44263	149,695.48	69.75%
Revenue derived from shipments to points not authorized in Decision No. 44263	64,920.88	30.25%

It was stated by counsel for applicants Rush Swoape and Daigh & Stewart Truck Co. that they had no objections to a restriction's being placed in their authorities, similar to the one contained in Decision No. 44262, limiting the transportation of commodities to those "destined to an oil-well site or originating at or destined to a storage yard".

Upon this record, we are not inclined to make any changes in Decision No. 44262, relating to Oilfields Trucking Company and Lacey Trucking Company. Applicants Rush Swoape and Daigh & Stewart Truck Co. specifically stated, through their counsel, that they had no objections to the authority granted to Oilfields and Lacey, and the other appearances indicated that they had no further evidence to introduce.

As to Rush Swoape and Daigh & Stewart Truck Co., the testimony was that each of them conducts one operation. There is no distinction between the hauling of various commodities or between transportation to various points in the state inasmuch as

the hauling is all performed on the same trucks and under the direction of the same management. Furthermore, a review of the evidence, both in the instant hearing and that submitted in the prior hearing, indicates that these applicants have held out to serve the entire state and have, on various occasions, conducted transportation to various points throughout the state. The tables previously set out herein show that in the case of each applicant shipments not authorized by Decision No. 44263 constitute more than thirty per cent of the business of each carrier. / Therefore, ✓ in view of the fact that the evidence indicates a need for hauling throughout the State of California, we must conclude that the application should be granted.

ORDER ON REHEARING

Public hearings having been held in the above-entitled proceedings, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That the certificates of public convenience and necessity granted to Rush Swoape, an individual, and Elmer Daigh and W. H. Stewart, doing business as Daigh & Stewart Truck Co., by

Decision No. 44263, be, and they hereby are, canceled and in lieu thereof that a certificate of public convenience and necessity, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casing-head plants, equipment and material used in construction, and equipment used in farming, be, and it hereby is, granted to Rush Swoape, an individual, and Elmer Daigh and W. H. Stewart, doing business as Daigh & Stewart Truck Co., a copartnership, upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of 50 miles of such routes:

U. S. 101 and U. S. 101 By-Pass between Oregon-California State Line and California-Mexico Line;

U. S. 99, 99-E, and 99-W between Oregon-California State Line and the Mexican Border;

U. S. 299 between Redding and Alturas, California;

U. S. 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;

State Highway 36 between Junction 99-E near Red Bluff, California, and Junction U. S. 395 at Johnstonville;

State Highway 20 between Marysville, California, and Junction U. S. 40;

U. S. 40 between San Francisco and California-Nevada State Line;

U. S. 50 between Sacramento, California, and California-Nevada State Line;

U. S. 395 between California-Nevada State Line at Topaz Lake and Junction U. S. 66;

U. S. 66 between Los Angeles and Needles, California;

U. S. 60 between Los Angeles, California, and California-Arizona State Line;

U. S. 91 and 466 between Barstow and Nevada-California State Line;

U. S. 80 between San Diego and California-Arizona State Line;

State Highway 127 between Baker and Nevada-California State Line.

(2) That the authority herein granted shall be subject to the following restrictions:

- (a) Applicants shall not transport any shipment which shall carry a charge lower than that applicable to a shipment of 10,000 pounds.
- (b) Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil-well site, construction site, or farm or originating at or destined to a storage yard.

(3) That, in providing service pursuant to the certificates herein granted, there shall be compliance with the following service regulations.

- (a) Within thirty (30) days after the effective date hereof, applicants shall file a written acceptance of the certificates herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicants 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, tariffs and time schedules satisfactory to the Commission.

In all other respects, the petitions for rehearing are denied.

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

Dated at San Francisco, California, this 3rd day of October, 1950.

A. E. Anderson  
Justin F. Casner  
Frank D. Powell  
Harold T. Hild  
Frederick D. Potter  
COMMISSIONERS