

ORIGINAL

Decision No. 45716

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Howard Terminal, a corporation,)
for a Certificate of Public conven-) Application No. 32139
ience and Necessity to Operate as)
a Highway Common Carrier for the)
Transportation of Property.)

McCutchen, Thomas, Matthew, Griffiths & Greene, by
Allan P. Matthew, Gerald H. Trautman and Peter M.
Teige, for applicant.
N. R. Moon, for Merchants Express Corporation;
Frederick W. Mielke, for Delta Lines, Inc.; Edward M.
Berol and Bertram Silver, for Highway Transport, Inc.;
Willard S. Johnson, for J. A. Nevis and J. Christenson
Company; Cliff Brooks, for Delivery Service Company;
Douglas Brookman, for Merchants Express Corporation
and California Motor Express, Ltd.; Reginald L. Vaughan,
for Peoples Express Company, Inter-Urban Express
Corporation, United Transfer Company, Haslett Warehouse
Company, East Bay Drayage and Warehouse Company and
Kellogg Express and Draying Company; and William
Meinhold, for Southern Pacific Company and Pacific
Motor Trucking Company, interested parties.

O P I N I O N

Howard Terminal, a corporation, which has heretofore
filed its Articles of Incorporation with this Commission, herein
requests a certificate of public convenience and necessity author-
izing operations as a highway common carrier for the transportation
of general commodities except uncrated household goods, explosives,
livestock, and liquids in bulk in tank trucks, between Oakland and
Emeryville, and between each of said points, on the one hand, and
San Pablo, Richmond, El Cerrito, Albany, Piedmont, Alameda, San
Leandro, San Lorenzo, Hayward, Castro Valley, San Francisco and
South San Francisco, on the other hand. The application as origi-
nally filed also embraced all points along U. S. Highway No. 40
between San Pablo and Vallejo, but these points were eliminated by

an amendment filed during the course of these proceedings, and at that time all protests to the amended application were withdrawn.

Public hearings were held in San Francisco before Examiner Gillard and the matter was submitted for decision on the last day of hearing on November 16, 1951.

Applicant conducts wharfinger, warehouse, freight forwarder and highway carrier services (under radial and contract carrier permits) at and from its facilities at 95 Market Street and 85th and Baldwin, Oakland. The business was started in 1900 as a wharfinger. Warehouse activities were added in 1923, and draying in 1942. The Market Street property comprises 18 acres and contains 335,000 square feet of covered area. It can accommodate four vessels at one time, and has track connections with Southern Pacific, Western Pacific and Santa Fe. At 85th and Baldwin is a leased warehouse of 104,000 square feet. It employs 175 people regularly, and up to 75 additional casuals.

The trucking operations were commenced in 1942, principally to accommodate and promote the warehouse business, and it has remained closely coordinated with the warehouse business to this date.

At the present time applicant operates 21 pieces of equipment, of which it owns seven and leases 14 under a three-year contract with its lessor. None of the equipment has mechanical refrigeration, and applicant stipulated at the hearing that it would not operate mechanically refrigerated equipment in the future. The financial results of its drayage department for the past few years are tabulated as follows:

<u>Year</u>	<u>Revenue</u>	<u>Expense</u>	<u>Profit</u>
1947	\$148,388	\$155,314	\$(6,925)
1948	165,153	160,893	4,259
1949	192,509	187,645	4,864
1950	207,345	188,308	19,040
1951 (6 Mos.)	112,180	106,680	5,499

About 80 per cent of the above figures are attributable to over-the-road operations, the balance being derived from operations within the terminal and charged to the drayage department.

The entire operation of applicant for the first six months of 1951 resulted in gross revenues of \$831,901 and a net profit of \$11,972. Applicant's balance sheet as of June 30, 1951, discloses assets of \$1,179,604, including \$196,879 of current assets, and capital stock and surplus of \$747,212. Current liabilities are listed at \$109,235. The balance sheet carries real estate at original cost, whereas it was testified that conservative present market value would be \$500,000 in excess of that figure.

It is apparent that applicant is financially sound and solvent, and possesses sufficient experience and equipment to conduct a highway common carrier operation.

Applicant also introduced into evidence exhibits tabulating its motor carrier operations, within the area for which a certificate is sought, for selected periods in 1951. During March, 975 shipments were transported; 760 were carried in June, and a total of 786 during the weeks beginning January 9, April 3, July 10 and October 2. Eighty to eighty-five per cent of these shipments moved to or from applicant's warehouses in Oakland, and all except approximately one per cent moved to or from Oakland. No shipment was disclosed that moved between Emeryville and any point except Oakland.

Applicant proposes to continue operations as in the past: an "on-call" service will be rendered, and rates will be established at the level of the Commission's applicable minimum rate orders. Deliveries are made the same day if calls are received by early afternoon; otherwise, deliveries are effected the following morning. Active solicitation will be confined as before, to drayage activities

in connection with warehouse accounts, although all requests for service will be met to the limit of applicant's facilities.

Witnesses who testified on behalf of applicant were mostly manufacturers' agents, brokers, or managers of branch offices, of eastern manufacturers. All of these agents store the products of their principals with applicant and use the latter's warehouses as the points of origin for all local sales activities. All have been using applicant's services for a number of years, are extremely satisfied and desire the same to be continued in the future.

The record establishes, and we so find, that public convenience and necessity require the establishment and operation of the proposed service, except with respect to the proposal to serve between Emeryville and points other than Oakland.

Applicant 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

Public hearings having been held in the above-entitled proceeding, and the Commission upon the evidence received having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Howard Terminal, a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 Public Utilities Code, for the transportation of general commodities except uncrated household goods, explosives, livestock, and liquid in bulk in tank trucks, between Oakland, on the one hand, and San Pablo, Richmond, El Cerrito, Albany, Emeryville, Piedmont, Alameda, San Leandro, San Lorenzo, Hayward, Castro Valley, San Francisco and South San Francisco, on the other hand, subject to the limitation that applicant shall not operate any mechanically refrigerated equipment.

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

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate 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, applicant 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.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

Between the cities enumerated in paragraph (1) hereof, any available streets and highways, and, as an alternate route between Hayward and

South San Francisco: State Highway No. 17,
San Mateo Bay Bridge, and U. S. Highway
No. 101 By-pass.

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

Dated at San Francisco, California, this 5th
day of February, 1952.

R. T. [Signature]
President
Justus F. [Signature]
Harold P. [Signature]
Wm. [Signature]
John E. [Signature]
Commissioners