

Decision No. 50105**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MORRIS DRAYING COMPANY, a corporation,)
 for a certificate of public convenience) Application No. 34791
 and necessity to operate as a highway)
 common carrier for the transportation)
 of property.)

APPEARANCES

Edward M. Berol for applicant.
Robert W. Walker and Henry M. Moffat for The Atchison,
 Topeka and Santa Fe Railway Company and Santa Fe
 Transportation Company, interested parties.
Frederick W. Mielke for Delta Lines, Inc., interested
 party.
Douglas Brookman for Merchants Express Corporation,
 Valley Express Co. and Valley Motor Lines, Inc.,
 and California Motor Express Ltd., interested
 parties.
William E. Meinhold and F. E. Fuhrman for
 Southern Pacific Company and Pacific Motor
 Trucking Company, interested parties.
Gordon Garland for Pacific Highway Users, Inc,
 interested party.
Francis X. Vieira for Reilly Truck Line, interested
 party.
J. Hills Wythe for Security Truck Lines, interested
 party.

O P I N I O N

Morris Draying Company seeks a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of:

(1) canned goods (as described in Item 610 Series, Highway Carriers' Tariff No. 2 as presently effective) subject to a minimum weight of 20,000 pounds per shipment or subject to a rate not less than that applicable to a shipment of 20,000 pounds of such commodities;

(2) machinery, lift trucks, tin or glass containers, caps and lids, labels, fibre and shock, subject to a minimum weight of 4,000

pounds per shipment or to a rate not less than that applicable to a shipment of 4,000 pounds of such commodities, between points in central and northern California bounded generally by Gridley on the north, Nimbus on the east, Modesto on the south, and Watsonville on the west.

A public hearing was held before Examiner Silverhart at San Francisco on May 11, 1954, on which date the matter was submitted.

Applicant and its predecessor in interest have been members of the for-hire trucking industry continuously since 1918 and have possessed radial highway common and highway contract permits since 1935.

Applicant has for many years past engaged in the transportation of canned goods, machinery and supplies for and on behalf of canners and food processors between points encompassed within the scope of the application.

Applicant proposes an on-call service at the rates, and pursuant to the rules and regulations in connection therewith, set forth in Highway Carriers' Tariff No. 2.

Representatives of firms which ship the kinds of commodities here involved to and between points comprehended by the application testified that they had used applicant's service and found it very satisfactory; that they need the proposed service and will use it if the authority sought herein is granted.

The record demonstrates, and the Commission finds, that public convenience and necessity require the establishment and operation of a service by applicant as a highway common carrier for the transportation of property as described in and between the points set forth in the ensuing order.

Applicant Morris Draying Company 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 and based upon the evidence therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Morris Draying Company, a corporation, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Commission for the transportation of:

(a) canned goods as more particularly set forth in Appendix "A" attached hereto, in shipments of not less than 20,000 pounds or subject to a charge not less than that applicable to a shipment of 20,000 pounds.

(b) machinery, lift trucks, tin or glass containers, caps and lids, labels, fibre and shock, in shipments of not less than 4,000 pounds or subject to a charge not less than that applicable to a shipment of 4,000 pounds between:

1. Gridley and San Francisco Bay points via U. S. Highways 99-E, 99-W, 40, and State Highway 24, serving Marysville, Yuba City, Sacramento, and Woodland as intermediate points, and Nimbus as an off-route point on U. S. Highway 50.
2. Escalon and San Francisco Bay points, via State Highway 120 and U. S. Highway 50, serving Tracy as an intermediate point.

3. Stockton and San Francisco Bay points, via U. S. Highways 99 and 50.
4. Sacramento and San Francisco Bay points, via State Highways 24 and 4, and U. S. Highway 40, serving Isleton and Rio Vista as intermediate points, and serving Thornton as an off-route point.
5. Watsonville and San Francisco Bay points, via State Highway 152, U. S. Highways 101 and 101 By-Pass, and State Highway 17 and the San Mateo Bridge, serving San Jose, Santa Clara, Sunnyvale, and Palo Alto as intermediate points.
6. Modesto and Stockton via U. S. Highway 99.
7. Any of the foregoing points via highways named.

(The term "San Francisco Bay points" includes San Francisco and South San Francisco, and points on the east side of the San Francisco Bay - San Pablo on the north, and Hayward on the south, inclusive.)

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

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days after the effective date hereof.
- (b) Within 60 days after the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, appropriate tariffs.

(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 highways and routes enumerated in paragraph 1.

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

Dated at San Francisco, California, this 1st day of June, 1954:

John E. Mitchell
President
Justus J. Casner
Kenneth Potter
Verne Roggins

Commissioners

APPENDIX "A"

Beans and Pork,
 Breads,
 Brine,
 Broths,
 Butter, fruit,
 Butter, peanut (peanut paste),
 Buttermilk (not Casein), not powdered
 or flaked,
 Chili, Ground,
 Chowders,
 Coconut, prepared, in packages
 named, or in paper cartons in
 boxes, or in bulk in
 boxes, or in double bags, or in
 multiple-wall paper bags,
 Corn,
 Egg Yolk, in cans in boxes,
 Feed, animal, containing more than
 50 per cent of meat, in metal cans,
 Fish, cooked, pickled or preserved,
 with or without fruit or vegetable
 ingredients, in packages named,
 or in bulk in boxes,
 Fish Roe, cooked, pickled or pre-
 served,
 Fruit (not fresh), crushed,
 Fruit (not dried, evaporated or fresh)
 in liquid other than alcoholic
 liquor,
 Garlic Chips, in packages named, or
 in bulk in boxes, or in double bags,
 or in multiple-wall paper bags,
 Garlic Powder, in packages named, or
 in bulk in boxes, or in double bags,
 or in multiple-wall paper bags,
 Hominy,
 Honey, in bulk in metal cans,
 Jam,
 Jelly,
 Juice, clam,
 Juice (not syrup), fruit, unfermented,
 Juice, tomato,
 Juice, vegetable,
 Macaroni (prepared), with or without
 cheese, meat or vegetable ingredients,
 Milk (condensed or evaporated), liquid,
 Milk, sterilized, liquid, flavored or
 not flavored,
 Milk (not malted), Buttermilk (not Casein)
 or Dry Milk Solids, powdered or flaked,
 in packages named, or in fibre cans, or
 in bulk in boxes, or in double bags, or
 in multiple-wall paper bags,
 Mince Meat,
 Molasses or Syrups, as described under the
 heading "Foodstuffs, Beverages or
 Beverage Preparations, not named in
 other more specific groups" in the cur-
 rent classification,
 Oil, olive or salad,
 Olives,
 Onion Chips, in packages
 named, or in bulk in
 boxes, or in double bags,
 or in multiple-wall
 paper bags.
 Onion Powder, in packages
 named, or in bulk in
 boxes, or in double
 bags or in multiple-wall
 paper bags,
 Paste, tomato,
 Pectin, fruit or vegetable,
 Pickles (Cauliflower,
 Cucumber, Dill Weed,
 Kraut, Mangoes, Onions
 and Tomato),
 Pie Preparation (fruit in
 syrup or in paste form
 compounded with flour
 or sugar and flavored,
 Pimentos (canned peppers),
 Puddings,
 Pulp, fruit or vegetable,
 Puree, tomato,
 Ravioli (prepared), with
 or without cheese, meat
 or vegetable ingredients,
 Rice-and-milk cooked,
 Sandwich Spread,
 Sausage,
 Sausage Casings, pickled
 or salted, in bulk in
 barrels,
 Soups,
 Spaghetti (prepared),
 with or without cheese,
 meat or vegetable in-
 gredients,
 Spaghetti and cheese, with
 sauce, in combined
 packages in boxes.
 Table Sauces, including
 Catsup, Prepared Horse-
 radish, Prepared Mustard,
 Pepper Sauce or Salad
 Dressing,
 Vegetables (not dehy-
 drated, dried, evapor-
 ated nor fresh),
 Vermicelli (prepared),
 with or without cheese,
 meat or vegetable in-
 gredients,
 Vinegar,
 Welsh Rarebit.