

Decision No. 54201

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 FERN TRUCKING COMPANY, a California)
 corporation, for a certificate of)
 public convenience and necessity to)
 operate as a highway common carrier)
 of lumber and forest products between)
 points and places in Los Angeles)
 Drayage Area, as defined, and between)
 said drayage area, on the one hand,)
 and points and places in Los Angeles)
 and Orange Counties, on the other)
 hand, pursuant to Section 1063 of)
 the Public Utilities Code.)

Application No. 37633

Glanz and Russell, by Arthur H. Glanz,
for applicant.

O P I N I O N

Applicant is a California corporation that has been in the truck transportation business in the Los Angeles metropolitan and harbor areas and between said areas and points and places in Los Angeles and Orange Counties since 1946. It succeeded a similar business that began in 1935. Applicant is now operating as a city, contract and radial highway common carrier under authority of this Commission, and, since 1943, has also operated as an interstate motor carrier pursuant to a certificate issued by the Interstate Commerce Commission. Its principal business has been the transportation of lumber and forest products between the aforesaid places, with occasional shipments to other Southern California points and places.

By this application authority is sought to transport, as a highway common carrier, lumber and forest products as defined in Minimum Rate Tariff No. 2, (1) between points within the Los

Angeles Drayage Area, and (2) between points and places in said Los Angeles Drayage Area, on the one hand, and points and places in Los Angeles and Orange Counties, on the other hand. Applicant has no contracts to transport such products and does not propose to transport lumber and forest products as a contract carrier between any points which it may be authorized to serve as a highway common carrier.

A public hearing was held in Los Angeles before Examiner Mark V. Chiesa. The application was not opposed. Evidence having been adduced, the matter was submitted for decision.

Applicant's president testified concerning the company's past and present operations, its facilities, employees, and financial condition. It is not deemed necessary to review his testimony in detail; however, the record is clear that applicant is ready, able and willing to perform the highway common carrier service herein proposed. Its financial condition as of September 30, 1956, was as follows:

Total Assets	\$529,775.67
Total Liabilities and Reserves	<u>238,489.19</u>
Net Worth	\$291,286.48
Represented by Capital Stock	
Outstanding (4192 shares	
of \$10 par value)	\$ 42,920.00
Surplus	<u>249,366.48</u>
	\$291,286.48

Applicant's income and expenses for the nine months ending September 30, 1956, was \$335,902.77 and \$309,758.89, respectively. Net income, after provision for Federal income tax of \$9,780, was \$16,363.88.

Five public witnesses, representing large shippers of lumber products in the area in question, testified that applicant's

proposed service is convenient and necessary in their respective businesses. All said witnesses have for years used applicant's present transportation service, which, they testified, has been very satisfactory. Applicant offered, and was prepared to call, additional shipper witnesses to testify that there is a need for the transportation service which it proposes. The testimony would have been cumulative.

The Commission having considered the evidence of record finds that public convenience and necessity require that applicant establish and operate a highway common carrier service as herein proposed. The application will be granted.

Fern Trucking Company is hereby placed on 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 as to the number of rights which may be given.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises and having found as hereinabove set forth,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be granted to Fern Trucking Company, a corporation, authorizing it to

operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

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

(a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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

Dated at Los Angeles, California, this 14th day of DECEMBER, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

Fern Trucking Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport Lumber and Forest Products, as listed under that heading in Item No. 660 on Original Pages 52 and 53 of Minimum Rate Tariff No. 2, between

- (a) All points and places in the Los Angeles Drayage Area as defined in Items Nos. 30, 31, 32 and 33 on Second Revised Page 9, Original Page 10, First Revised Page 11 and Original Page 12 of Minimum Rate Tariff No. 5.
- (b) Points and places in said Los Angeles Drayage Area, on the one hand, and points and places in Los Angeles and Orange Counties, on the other hand.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 54201, Application No. 37633.