

Decision No. 57082**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of RAY W. FRASER, doing business )  
as W. A. FRASER TRUCKING CO., for )  
a certificate of public convenience )  
and necessity to operate as a highway )  
common carrier. )

Application No. 37073

Daniel W. Baker, for applicant.

William Meinhold and Frederick E. Fuhrman, by  
Frederick E. Fuhrman, for Southern Pacific  
Company and Pacific Motor Trucking Company;  
Robert W. Walker and Henry W. Moffat, by  
Henry W. Moffat, for Santa Fe Transportation  
Company; Frederick W. Mielke, for Delta Lines,  
Inc.; Berol & Silver and Bruce R. Geernaert,  
by Bruce R. Geernaert, for Highway Transport  
Inc.; Willard S. Johnson, for Karlson Bros.  
Trucking Service and J. A. Nevis Trucking Co.,  
protestants.

O P I N I O N

Applicant Ray W. Fraser, doing business as W. A. Fraser Trucking Co., by this application seeks from the Commission a certificate of public convenience and necessity for the transportation of iron, steel, iron and steel articles, pipe and pipe fittings, plumbing supplies and materials and construction equipment between certain specified points in the State of California.

Applicant holds a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of general commodities, with specified exceptions, between points and places in the San Francisco-East Bay Cartage Zone and between said Cartage Zone, on the one hand, and Decoto and Niles, on the other hand. In addition, the applicant is presently engaged in the transportation of property under Radial Highway Common Carrier Permit No. 1-4271, Highway Contract Carrier Permit No. 1-5747, and City Carrier Permit No. 1-7284.

Duly noticed public hearings were held in this matter in Oakland on Monday, December 9, 1957, and in San Francisco on January 31, 1958, before Examiner Donald B. Jarvis.

The evidence shows that the W. A. Fraser Trucking Co. was founded in 1912 by applicant's father. Applicant entered the business in 1925 and became a part owner in 1933. He became the sole owner in 1945 subsequent to the death of his father.

The evidence further discloses that applicant owns, unencumbered, terminal facilities located in Oakland, California. Applicant has 23 motor vehicles in his service fleet. Applicant's operating equipment ranges in carrying capacity from 3,000 to 40,000 pounds. Applicant testified that if the operating authority herein sought were granted he would expand his fleet as may be required. Applicant employs 8 regular drivers and additional drivers during peak periods. The average period of employment for the regular drivers is approximately 7 years. The W. A. Fraser Trucking Co. has realized a net profit for the last 20 years. Applicant's net profit for the period of January 1, 1957 to September 30, 1957 was \$17,122.29. Based upon the foregoing evidence, the Commission finds that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the operation for which authority is herein sought.

The primary question to be resolved is whether public convenience and necessity require instituting the service sought to be rendered by applicant.

Six shipper witnesses testified in behalf of applicant: Edward M. Malley, warehouse superintendent for the Howard Supply Company of Oakland; Donald L. Swain, Oakland Branch plant superintendent of the Grinell Company; Eugene E. Kelleher, traffic manager for the San Francisco and San Jose warehouses of the Grinell Company;

Ferdinand E. Jensen, the shipping and receiving dispatcher for the Herrick Iron Works in Hayward; W. C. Groeniger, Jr., president of Groeniger & Company, Oakland; and James A. Fitzsimmons, the northern regional traffic manager of the Republic Supply Company of San Leandro. Each of these witnesses testified that he was the person responsible for selecting and dealing with the carriers used by his company or plant. Each of said witnesses also testified that applicant had been rendering excellent service to the witness' company. Malley testified that Howard Supply Company shipped mainly pipe, pipe fittings, industrial supplies, fences, nuts and bolts, and plastic pipe; that he considered applicant's employees to be specialists in handling such materials; and that in his experience other carriers did not give as good service as did applicant. He also testified that most shipments by Howard Supply weighing more than five tons were tendered to Fraser. He stated that the granting of a certificate to the applicant would be of benefit to his company and that Howard Supply would avail itself of applicant's services in any newly certificated area. Swain testified that the Oakland branch of Grinell Company warehoused pipe valves, fittings, steam equipment, boilers, fire protection equipment, and rods; that the company has four trucks with which it makes some of its own deliveries; that the overage which the company trucks can not handle is generally tendered to applicant for delivery; and that W. A. Fraser Trucking Co. in times past would handle pipe and related commodities for Grinell when no other carrier would. Swain further testified that Grinell received "emergency" service from applicant on many occasions whereby Fraser would dispatch a truck in order to make an immediate pickup and delivery. Kelleher testified that the San Francisco branch of the Grinell Company had no delivery trucks and that applicant rendered to it a service similar to that rendered to the Oakland branch. Jensen testified that the

Herrick Iron Works shipped fabricating and reinforced structural steel, wind tanks, wire, bolts and rivets; that applicant's employees knew how to handle expertly the types of materials shipped by Herrick; that applicant's drivers were better informed than drivers of other carriers as to loading and unloading procedures with regard to such materials; that applicant had on occasions rendered "emergency" service to Herrick; and that the granting of the application here involved would be beneficial to Herrick. Groeniger testified that his company ships waterworks supplies, fire protection equipment, sewage equipment, gate valves, and fittings; that all "emergency" shipments were tendered by his company to applicant because of the exceptional service rendered by applicant in such situations; that applicant gives better service than other trucking companies used by Groeniger; and that the awarding of a certificate to applicant would be of benefit to the Groeniger Company. Fitzsimmons testified that on many occasions applicant rendered "emergency" service to the Republic Supply Company and that the awarding of a certificate to applicant would benefit his company.

Evidence was introduced to show that each of the protestants operates in a portion or all of the area for which applicant seeks authority to serve. Each of the protestants has authority to transport some or all of the commodities which applicant seeks authority to transport. Witnesses on behalf of J. Nevis Trucking Company, Highway Transport Incorporated, and Pacific Motor Trucking Company testified that each of their companies was not operating to its fullest capacity; that each had the facilities to handle the type of commodities for which the certificate is sought by applicant in all or a portion of the area sought to be served by applicant; and that the awarding of operating rights to applicant in the area for which said rights are sought would dilute their potential business thereby injuring each of these protestants.

The Commission, having weighed the evidence of record in this matter, finds that applicant is especially suited to give special handling to the commodities for which authority is sought and that applicant is able to and is prepared to render, in addition to regular service, an 'emergency' type of service to the public and shippers at large on proper occasions. The Commission further finds that public convenience and necessity require that the application herein be granted to the extent hereinafter set forth.

While there is general testimony in the record by the shipper witnesses who testified in behalf of applicant that they would use his services in the area requested by this application, the Commission is of the opinion that the service area grant to applicant should be restricted to points to which specific evidence in the record shows a reasonable probability that applicant will be called upon to serve. Upon examination of the entire record the Commission finds that the certificate of public convenience and necessity to be awarded applicant should be to the following points:

1. Between San Mateo and San Jose and intermediate points and between Hayward and San Jose and intermediate points. Applicant shall conduct said operations over and along:
  - a. U. S. Highways 101 and 101 Bypass between San Mateo and San Jose.
  - b. State Highways 9 and 17 and unnumbered highways between Hayward and San Jose.
  - c. State Highway 9 between Milpitas and Mountain View.
  - d. San Mateo Bridge and Dumbarton Bridge.
2. Between the San Francisco-East Bay Cartage Zone, as specifically defined in Appendix A in Decision No. 51001 dated January 18, 1955, and Sacramento and points intermediate thereto along U. S. Highway 40.
3. Between said San Francisco-East Bay Cartage Zone and Stockton and points intermediate thereto along State Highway 40.
4. Between said San Francisco-East Bay Cartage Zone and Sacramento and points intermediate thereto along U. S. Highway 50.

5. Between said San Francisco-East Bay Cartage Zone, on the one hand, and Pittsburg and Antioch, on the other hand, along State Highway 24 and unnumbered highways.

At the hearing some point was made by protestants as to the description of the commodities sought to be handled by applicant. Some of the shipper witnesses who testified enumerated commodities shipped by their companies in terms of their trade nomenclature rather than in the vocabulary of the transportation industry. Portions of this testimony have hereinbefore been summarized. The Commission is of the opinion and hereby finds that the commodity description in the certificate herein awarded should be of such nature as to be easily understandable by applicant, shippers, and the public at large. In the circumstances the Commission finds that, insofar as possible, the definition of the commodities to be handled should be in accordance with the Western Classification. The Commission finds that applicant should be permitted to haul the following commodities:

1. BOILERS OR BOILER PARTS, as described in Items Nos. 12010 through 12241 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
2. CONDUIT, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, as listed under that heading in Items Nos. 29220 through 30440 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
3. IRON OR STEEL, as listed under that heading in Items Nos. 53610 through 55290 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
4. PLUMBERS' GOODS, OR BATHROOM OR LAVATORY FIXTURES, as listed under that heading in Items Nos. 77890 through 78770 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
5. MISCELLANEOUS COMMODITIES, VIZ.:  
Hydrants, fire

Applicant 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or cancelled 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

The above-entitled application having been considered, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Ray W. Fraser authorizing him to operate as a highway common carrier, as defined by Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes 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.

(3) That, for the convenience of the public and the Commission, the operating rights heretofore granted applicant in Decision No. 51328 and Decision No. 51001 will be republished in Appendix A attached hereto.

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

Dated at San Francisco, California, this 29<sup>th</sup> day of July, 1958.

E. Lynn Fox  
President  
W. S. McMill  
Paula L. L. L. L.  
Theodore J. J.  
Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.



1. Republishing of Operating Rights

(a) Applicant, in Decision No. 51001 in Application No. 35170, dated January 18, 1955, was awarded a certificate of public convenience and necessity to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities except petroleum products in bulk in tank vehicles, uncrated household goods, livestock and commodities of unusual value between the points designated as the San Francisco-East Bay Cartage Zone described as follows:

The San Francisco-East Bay Cartage Zone includes that area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U.S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U.S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U.S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and

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southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland boundary line to its intersection with the Alameda-Contra Costa County boundary line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U.S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U.S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U.S. 40; thence northerly along Highway U.S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the

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foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

The foregoing description includes the following points or portions thereof:

Alameda	Fruitvale	Point Potrero
Alameda Pier	Government Island	Point Richmond
Albany	Hayward	Point San Pablo
Baden	Lawndale	Richmond
Bay Farm Island	Lomita Park	Russell City
Bayshore	Melrose	San Bruno
Berkeley	Millbrae	San Francisco
Bernal	Mills Field	San Francisco Inter-
Brisbane	Mt. Eden	national Airport
Broadway	Oakland	San Leandro
Burlingame	Oakland Municipal	San Lorenzo
Camp Knight	Airport	San Mateo
Castro Valley	Oakland Pier	San Pablo
Colma	Ocean View	South San Francisco
Daly City	Piedmont	Stege
East Oakland	Point Castro	Tanforan
El Cerrito	Point Fleming	Treasure Island
Elkton	Point Isabel	Union Park
Elmhurst	Point Molate	Visitacion
Emeryville	Point Orient	Westlake
Ferry Point		Winehaven
		Yerba Buena Island

(b) Applicant, in Decision No. 51328 in Application

No. 35170, dated April 12, 1955, was awarded a certificate of public convenience and necessity for the transportation of general commodities, with the above-named exceptions, between said San Francisco-East Bay Cartage Zone, on the one hand, and Decoto and Niles, on the other hand.

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2. Ray W. Fraser, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport:
- a. BOILERS OR BOILER PARTS, as described in Items Nos. 12010 through 12241 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - b. CONDUIT, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, as listed under that heading in Items Nos. 29220 through 30440 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - c. IRON OR STEEL, as listed under that heading in Items Nos. 53610 through 55290 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - d. PLUMBERS' GOODS, OR BATHROOM OR LAVATORY FIXTURES, as listed under that heading in Items Nos. 77890 through 78771 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - e. MISCELLANEOUS COMMODITIES, VIZ.:  
Hydrants, fire

BETWEEN THE FOLLOWING POINTS:

- (a) Between San Mateo and San Jose and intermediate points and between Hayward and San Jose and intermediate points. Applicant shall conduct said operations over and along:
- (1) U. S. Highways 101 and 101 Bypass between San Mateo and San Jose.
  - (2) State Highways 9 and 17 and unnumbered highways between Hayward and San Jose.

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- (3) State Highway 9 between St. Peters and Mountain View.
- (4) San Mateo Bridge and Dumbarton Bridge.
- (b) Between the San Francisco-East Bay Cartage Zone, as specifically defined in Appendix A in Decision No. 51001 dated January 18, 1955, and Sacramento and points intermediate thereto along U. S. Highway 40.
- (c) Between said San Francisco-East Bay Cartage Zone and Stockton and points intermediate thereto along State Highway 4.
- (d) Between said San Francisco-East Bay Cartage Zone and Sacramento along U. S. Highway 50 and intermediate points.
- (e) Between said San Francisco-East Bay Cartage Zone, on the one hand, and Pittsburg and Antioch, on the other hand, along State Highway 24 and unnumbered highways. The authority set forth in this paragraph does not include the right to render service to, from or between intermediate points.

End of Appendix A

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