

ORIGINALDecision No. 59551

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of C. H. MILLER, doing business)	
as C. H. MILLER TRANSPORTATION,)	Application No. 41598
for a certificate of public con-)	
venience and necessity to operate)	
as a highway common carrier.)	

Handler and Baker by Daniel W. Baker,
for applicant.

O P I N I O N

In this application, C. H. Miller, doing business as C. H. Miller Transportation, a highway common carrier, requests an extension of his certificate which will authorize him to transport specialized and heavy equipment between various points in north central California. A public hearing on this matter was held in San Francisco on November 5, 1959, before Examiner James F. Mastoris, at which time evidence was presented and the matter duly submitted.

Specific Authority Requested

At present the applicant operates on a statewide basis as a highway common carrier of lumber and forest products, and, in addition, as a radial highway common carrier and as a highway contract carrier. He has been actively engaged in the transportation business since 1949. Specific authorization is sought by this extension to transport certain commodities, on a nonscheduled on-call basis, which, by reason of their abnormal size, weight or bulk, require special equipment and handling, and materials, parts and

supplies for said commodities between the following points in the Feather River area:

1. Marysville and Susanville via Alternate U. S. Highway 40 and California State Highways 89 and 36.
2. Marysville, Sierraville, and junction U. S. Highway 395, via California State Highways 20, 49, 89 and Alternate U. S. Highway 40.
3. Susanville and junction Alternate U. S. Highway 40 via U. S. Highway 395.
4. Unnumbered highways and roads between Susanville, Walkermine, Cascade, Gibsonville, Taylorville, Mohawk, Portola, Calpine, Challenge, La Porte, Bangor, Marysville, Honcut, Enterprise, Janesville, Englemine, Genesee, Quincy, and Indian Falls.

Proof in Support of Application

The applicant presented evidence in the form of shipper testimony that there is a manifest and ever-widening public need for the specialized service proposed in this application. These shippers, primarily national and world-wide business firms engaged in the construction of dams, bridges, tunnels, power plants and other similar projects in the upper regions of the said Feather River area, declared that they require this type of transportation service because most of the equipment used by them in heavy construction work is oversize, of great weight or bulk and requires special vehicles such as low-bed trucks, lift trucks and truck cranes, as well as personnel specifically trained to handle such equipment. Commodities usually shipped by these firms consist of all types of large earth-moving vehicles, heavy electrical apparatus, large rotors, generators, compressors, railroad locomotives, cement, caterpillar tractors, tunnel construction equipment, powerhouse machinery, pipes, turbines, culverts, drilling appliances and other large and similar construction equipment.

Testimony was received that there has been in recent years, and is at present, an extensive state and federal development of

water power and natural resources in the area proposed to be served. Furthermore, additional and more elaborate construction is planned in the Oroville Dam region under the 1959 Water Resources Development Plan of the State of California. As a result, it is contended public demand for heavy hauling transportation in this part of the State will continue for many years.

Applicant's services have been used consistently in the past by these shippers and all testified that they plan to utilize his transportation facilities on future undertakings in which they are engaged. It was pointed out that this applicant is the only carrier specializing in large equipment carriage in this area and that his local terminal and maintenance facilities in Oroville are an advantage to said shippers because of the close proximity to their construction job sites in the Feather River Canyon country. In addition, it is alleged the certainty resulting from published rates of a highway common carrier constitutes a benefit to these firms because of the cost factor involved in such projects.

Protests

No person or firm protested this application.

Findings

Upon consideration of all the allegations of the application and the evidence adduced at the hearing, the Commission finds and concludes that public convenience and necessity require that the application be granted. We find that there is a present and prospective need for this proposed service, and that the applicant possesses the particular and distinctive experience and equipment to extend his certificate and maintain the operations to be authorized. We further find that the applicant possesses the financial ability to support the proposed service and the resources to acquire such additional equipment as may be required to conduct such operations.

His terminal facilities, personnel and safety program are adequate and suitable for the purposes intended in this application.

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 canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Although the applicant has not requested in his application a redescription of his operative rights the Commission feels that it would be appropriate at this time to restate all of the applicant's operative rights by this decision. This restatement of the operative rights, with all the additions, amendments, changes, and modifications thereto, will consist of a new certificate and an appendix in loose-leaf form and shall constitute the entire and exclusive evidence of the applicant's operative authority. Based on a finding and order of the Commission, amendments to the certificate can be accomplished by the issuance of substitute sheets to Appendix A.

In consonance with the foregoing, a certificate will be granted to applicant in the order of this decision attached to which will be Appendix A, in loose-leaf form, categorically setting forth all the points and routes of operations, and the commodities authorized, together with all of the rights, restrictions, limitations and privileges applicable thereto. All presently existing certificates of public convenience and necessity or other highway common carrier operative rights held by the applicant will be revoked and annulled.

O R D E R

Public hearing having been held and based on the evidence adduced therein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to C. H. Miller, doing business as C. H. Miller Transportation, authorizing the establishment and operation of service as a highway common carrier, as that term is defined in Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof, but subject to the conditions and restrictions of said Appendix A; and that all presently existing highway common carrier operative rights held by applicant under Decisions Nos. 43424, 45016 and 57120 are hereby revoked and annulled contemporaneously with the acceptance of the above certificate, the filing of tariffs and the institution of service thereunder, by applicant.

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, a 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 San Francisco, California, this 26th day of January, 1960.

[Handwritten Signature]

President

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

Commissioners

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

I. Heavy Hauling Equipment

A. C. H. Miller is authorized to transport the commodities set forth in Paragraph B between all points and places and over the routes specified, including all off-route points located within a radius of 10 miles laterally of the named highways, as follows:

1. Marysville and Susanville via Alternate U. S. Highway 40 and California State Highways 89 and 36.
2. Marysville, Sierraville, and junction U. S. Highway 395, via California State Highways 20, 49, 89 and Alternate U. S. Highway 40.
3. Susanville and junction Alternate U. S. Highway 40 via U. S. Highway 395.
4. Unnumbered highways and roads between Susanville, Walkermine, Cascade, Gibsonville, Taylorville, Mohawk, Portola, Calpine, Challenge, La Porte, Bangor, Marysville, Honcut, Enterprise, Janesville, Englemine, Genesee, Quincy, and Indian Falls.

B. Commodities authorized are:

BUILDING OR PAVING MATERIALS, MISCELLANEOUS, as listed under that heading in Items Nos. 15860 through 16870.

CONDUITS, DRAIN TILE, SEWER PIPE, or RELATED ARTICLES, CLAY, CONCRETE OR EARTHEN, as listed under that heading in Items Nos. 28980 through 29210.

CONDUITS, PIPE, SMOKESTACKS, TUBING or FITTINGS, OTHER THAN CLAY, CONCRETE or EARTHEN, as listed under that heading in Items Nos. 29220 through 30440.

ELECTRICAL APPLIANCES or EQUIPMENT, or PARTS NAMED, as listed under that heading in Items Nos. 34020 through 35425.

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MACHINERY or MACHINES or PARTS NAMED, as listed under that heading in Items Nos. 58470 through 67392.

OUTFITS, as listed under that heading in Items Nos. 73380 through 74240.

RAILWAY MATERIAL or EQUIPMENT, as listed under that heading in Items Nos. 80835 through 82950.

VEHICLES, MOTOR, as listed under that heading in Items Nos. 93315 through 93440.

VEHICLE PARTS, as listed under that heading in Items Nos. 93445 through 94790.

MISCELLANEOUS COMMODITIES, Viz.:

Cement, hydraulic, masonry, mortar, natural or Portland
Culverts
Mine props or timbers
Ties, railroad
Tunnel segments.

NOTE: The terms "Items" as used above refers to the specified items as listed in Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

II. Lumber and Forest Products

A. Further, C. H. Miller is authorized to transport lumber and forest products as described in Item No. 660 of Original Pages 52 and 53 of Minimum Rate Tariff No. 2, between the points and over the routes specified, as follows:

1. Over U. S. Highway 99, 99W and 99E between the California Oregon State Line and Modesto.
2. Over U. S. Highway 97 between the California-Oregon State Line and U. S. Highway 99.

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3. Over State Highway 96 between U. S. Highway 99 and U. S. Highway 299.
4. Over U. S. Highway 101 between the California-Oregon State Line and its junction with State Highway 36.
5. Over U. S. Highway 199 between California-Oregon State Line and Crescent City.
6. Over an unnumbered road between Callahan and Tower House.
7. Over U. S. Highway 299 between U. S. Highway 101 and Alturas.
8. Over State Highway 89 between its junction with State Highway 44 and U. S. Highway 99.
9. Over State Highway 44 between Redding and its junction with State Highway 89.
10. Over State Highway 36 to a point thereon approximately one mile northeasterly of Westwood, thence over an unnumbered road, between U. S. Highway 101 and Westwood.
11. Over U. S. Highway 40 between Sacramento and San Francisco.
12. Over U. S. Highway 50 between Stockton and San Francisco.
13. Over State Highway 12 between U. S. Highway 40 and Napa.
14. Over State Highway 37 to Sears Point, thence over State Highway 48, between U. S. Highway 101 and U. S. Highway 40.
15. Over U. S. Highway 101 and 101 By-pass between Ukiah and San Jose.

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16. Over State Highway 17 between Oakland and San Jose.
17. Over an unnumbered road via San Francisco Bay Toll Bridge, between State Highway 17 and U. S. Highway 101.
18. With the right to serve all points embraced within the following laterals to the above-described routes:
 - a. Thirty-five miles north of Corning and Vina, and
 - b. Ten miles south of Corning and Vina, and
19. Intermediate points within the above-described routes and laterals.
20. All subject to the following restrictions:
 - a. No local service between points south of Woodland on any highways.
 - b. No service between Montague, Callahan and intermediate points.
 - c. No service between points on U. S. Highway 101 north of Alton, on the one hand, and San Francisco Bay points, on the other hand.

B. In addition, C. H. Miller is authorized to transport said lumber and forest products between the following points and over the following routes:

1. Between Sacramento and Berkeley via State Highway 24.
2. Between San Jose and the California-Mexican border via U. S. Highway 101 and 101 Alternate.

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C. H. MILLER TRANSPORTATION

3. Between Modesto and the California-Mexican border via U. S. Highway 99 to Los Angeles, U. S. Highway 60 to Riverside, U. S. Highway 395 to San Diego, U. S. Highway 80 to El Centro, and U. S. Highway 99 to the California-Mexican border.
4. Between U. S. Highway 50, at its junction with State Highway 33 three miles easterly of Tracy, and Ventura, via State Highway 33 and U. S. Highway 399.
5. Between Bakersfield and the California-Mexican border via U. S. Highway 466 to its junction with U. S. Highway 395, thence via U. S. Highway 395 to its junction with U. S. Highway 99, thence via U. S. Highway 99 to the California-Mexican border.
6. Between Chico and the junction of State Highways 32 and 36 via State Highway 32.
7. Between Sacramento and the California-Nevada State Line via U. S. Highway 40.
8. Between Sacramento and the California-Nevada State Line via U. S. Highway 50.
9. With the right to serve points adjacent to the above routes located within 35 miles laterally thereof; and,
10. Between intermediate points.
11. Subject to the restrictions with respect to the above-numbered routes, 1, 2, 3, 4, and 5 that shipments shall move between points and places north of and including Woodland, on the one hand, and points and places on said routes numbered 1, 2, 3 4, and 5, on the other hand.

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