

ORIGINALDecision No. 60182

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BROWN DRAYAGE INC., a corporation,)
 for an expansion and restatement of)
 its certificate of public conven-)
 ience and necessity authorizing)
 highway common carrier service.)

Application No. 41837

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

O P I N I O N

Brown Drayage Inc., a corporation, is operating under permitted authority as a radial highway common carrier, a highway contract carrier and a city carrier. The applicant also operates as a highway common carrier under a certificate of public convenience and necessity granted by Decision No. 58410, dated May 12, 1959, in Application No. 40822. This certificate authorizes the applicant to transport general commodities between points and places in the San Francisco-East Bay Cartage Zone.

Applicant now requests a certificate of public convenience and necessity pursuant to Section 1063 of the Public Utilities Code, in lieu of, and as an extension of, applicant's existing certificate, authorizing applicant to perform transportation of general commodities, with the usual exceptions, to and between all points specified in Appendix A hereto which is by this reference made a part hereof.

A public hearing was held before Examiner Edward G. Fraser, on April 14, 1960, at Oakland, California. No one appeared in protest to the authority requested.

Applicant's last certificate was granted in 1959. The evidence shows considerable industrial growth in the areas to which an

extension now is requested. The applicant has customers who desire service into this extended area, and likewise they desire split pickups and split deliveries to be made therein.

Nine shipper witnesses testified they prefer the service offered by the applicant and that it would be beneficial to their respective companies to have applicant provide service to the additional areas applicant has requested authorization to serve.

The evidence further discloses that applicant is able to supply the extended service, has adequate equipment, has the necessary experience, and is financially sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order which will provide for an in lieu certificate combining all of applicant's operating authority.

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.

ORDER

A public hearing having been held, and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Brown Drayage, Inc., a corporation, authorizing it 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 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 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 it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100A. 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 Orders Nos. 99 and 100A 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 to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.
3. That the operating authority granted by Decision No. 58410 is hereby canceled, said cancellation to become effective concurrently

with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 14th day of May, 1960.

Ernest R. Boyer
 President

M. J. ...

C. J. ...

Theodore J. ...

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Brown Drayage, Inc., a corporation, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points on and within three air miles of the following routes:

1. U. S. Highways 101 and 101 By-Pass between San Francisco and San Jose, inclusive;
2. U. S. Highway 40 and State Highways 9 and 17 between Richmond and Santa Cruz, inclusive;
3. Via any and all routes, highways, roads and bridges between said points.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
3. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
4. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
5. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
6. Logs.
7. Fresh fruits and vegetables (not cold pack nor frozen).

Issued by California Public Utilities Commission.

Decision No. 60182, Application No. 41837.