

Decision No. 60655

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HASLETT WAREHOUSE COMPANY, a corpo-
ration, for an expansion and restate-
ment of its certificate of public
convenience and necessity to operate
as a highway common carrier.

Application No. 41717
(Amended)

Handler & Baker, by Marvin Handler, for applicant.

O P I N I O N

Haslett Warehouse Company is a highway common carrier operating under certificates of public convenience and necessity issued by this Commission. It also operates as a warehouseman under the terms of Public Utilities Code Section 239. In addition, it holds the following permits issued by this Commission: Radial Highway Common Carrier, Highway Contract Carrier and City Carrier. Haslett seeks, by this application, the removal of certain restrictions presently contained in its operating rights, additional territorial highway common carrier operating rights and a restatement of all its highway common carrier operating rights in an in-lieu certificate of public convenience and necessity.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis on April 12 and 20, 1960 at San Francisco. No protestants appeared at the hearing.

The record discloses that Haslett is an established highway common carrier. It has approximately 135 pieces of operating equipment. Haslett had an earned surplus of \$290,586 as of December 31, 1959.

The Commission finds that Haslett has the ability, including financial ability, to conduct the operations for which authority is herein sought.

Haslett is presently authorized to serve, as a highway common carrier, all points in the San Francisco-East Bay Cartage Zone. Haslett has "warehouses" and "distribution terminals" in San Francisco and Oakland. It also possesses highway common carrier authority to transport general commodities subject to the restrictions that: (1) such shipments originate at the warehouses operated by applicant in San Francisco or Oakland and are destined to Sacramento, Stockton, Turlock and San Jose and intermediate points (except such of these points as are within the San Francisco-East Bay Cartage Zone), and (2) such shipments move through applicant's distribution terminals in San Francisco or Oakland for delivery to the same destination points hereinabove immediately set forth, and further that such shipments move to or from a warehouse customer having a current storage account with applicant.

Haslett seeks herein the removal from its operating authority of the restrictions above cited so that it will be able to serve all members of the shipping public between San Francisco and Oakland, on the one hand, and, on the other hand, Sacramento, Stockton, Turlock and San Jose and intermediate points. Haslett also seeks authority to transport general commodities between the following points: Turlock and Fresno and points intermediate thereto on U.S. Highway 99; San Francisco and Napa and Vallejo and points intermediate thereto on U.S. Highway 101 and State Highways 37, 42 and 49; Sacramento and Marysville and points intermediate thereto on U.S. Highways 99E and 40 Alt.; Tracy and Mendota and points intermediate thereto on State Highway 33; Mendota and Fresno and

points intermediate thereto on State Highway 180; San Jose and Monterey and points intermediate thereto on State Highways 1 and 17; San Jose, Salinas and points intermediate thereto on U.S. Highway 101. Haslett also seeks authority to serve all points located within 10 miles laterally of the aforesaid routes and all points within a 20-mile radius of the cities of Stockton and Sacramento.

Twenty-six witnesses, representing firms which ship and receive freight, testified in behalf of Haslett. Some of these witnesses testified that their firms were presently using Haslett and that it would benefit them if it were authorized to serve the additional territorial area herein sought. Other witnesses testified that their companies could not now use Haslett because of the restrictions contained in its operating rights; that the service proposed by Haslett would better meet their needs than the highway common carrier service they are now receiving and that it would benefit their companies if the authority herein sought were granted to Haslett. Representative portions of the public witness testimony follow.

A representative of the Sacramento branch of McKesson & Robbins, Inc., testified that the Sacramento branch was not presently using Haslett for any of its transportation needs; that McKesson sells drugs to the United States Government which are destined for immediate overseas shipment from Travis Air Force Base; that time in transit is an important factor in delivering these drugs; that McKesson has been unable to get the service it requires for the drug shipments from Sacramento to Travis Air Force Base; and that Haslett has proposed a service which would meet that need if this application is granted.

A food broker, who testified, stated that he represents many accounts whose products he sells to wholesale grocers and supermarkets in the area here in question; that some of his accounts store their products in Haslett warehouses and for these accounts he can use Haslett's highway common carrier service; that other accounts store elsewhere and he cannot use Haslett for shipments in connection with these accounts; that if a customer is unhappy with the service of one account the food broker stands to lose all his accounts with that customer; that the broker preferred using Haslett for all his shipments in the area in question.

The northern California manager of the Gold Seal Company testified that his company stores its products for distribution in northern California at the Haslett San Francisco warehouse; that Gold Seal customers are billed directly from its home office in North Dakota; that if there is a delay in transit and the bill arrives before the merchandise this causes dissatisfaction and problems with Gold Seal's customers; Gold Seal has been using Haslett in the area in which it is presently authorized to serve and has never had any difficulties with time in transit; that Gold Seal is using other highway common carriers in the territorial area for which Haslett seeks operating authority herein; Gold Seal has experienced delays in transit for as much as seven days with these other carriers; and that it would benefit Gold Seal if it could use Haslett in the additional area.

The evidence further indicates that there are approximately 12 shippers who have, in the recent past, stored their goods at one of the Haslett warehouses and used Haslett to provide highway common carrier service. These shippers have become accustomed to the service rendered by Haslett and Haslett personnel

who are acquainted with the individual needs of each of these shippers. Each of these shippers has now provided himself with private warehouse facilities, and as a result of the restrictions contained in Haslett's operating rights it may no longer provide highway common carrier service for them. These shippers desire to have Haslett continue to serve them as a highway common carrier.

The record also discloses that another of the restrictions presently imposed on Haslett's operating rights is very confusing to the carrier and the shipping public. Haslett is authorized to provide highway common carrier service between specified points for warehouse customers "having a current storage account in one or more of its warehouses". Haslett has many warehouse customers whose business needs require only intermittent storage. Whenever one of these intermittent warehouse accounts desires to tender a shipment to Haslett at a place other than the Haslett warehouse it is necessary to determine whether the shipper has anything presently stored at a Haslett warehouse, and, if not, whether the account is "current".

Based upon the evidence of record the Commission finds that public convenience and necessity require the removal of certain restrictions contained in Haslett's operating rights, that Haslett be awarded additional territorial operating rights and that this application be granted.

In order to avoid confusion among the shipping public and assist the Commission in its regulatory functions, the additional operating authority herein granted and Haslett's existing certificates of public convenience and necessity will be consolidated.

Haslett Warehouse 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, 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.

O R D E R

An application having been filed and based upon the evidence therein contained,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Haslett Warehouse Company, a corporation, authorizing the transportation of property as a highway common carrier, as defined by Section 213 of the Public Utilities Code, between the points and over the routes as set forth in Appendix A hereof.

2. 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 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. 100-A. 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 100-A, 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. The certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Haslett Warehouse Company, which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of August 1960.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.

I. Haslett Warehouse Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and over the routes hereinafter set forth; provided, however, that applicant shall not transport any shipments of the following:

- (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) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
- (4) 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.

II. Haslett Warehouse Company, a corporation, shall have the authority to transport the commodities set forth in paragraph I of this appendix between the points and over the routes as follows:

- A. Between all points and places over and along and within 10 miles laterally of the following described highways:
- (1) U.S. Highway No. 40 between San Francisco and Sacramento, including all points within 20 miles of the city limits of Sacramento;
 - (2) U.S. Highway No. 50 between San Francisco and Stockton;

Issued by California Public Utilities Commission.

Decision No. 60035, Application No. 41717.

- (3) State Highway No. 24 between Oakland and Sacramento;
- (4) U.S. Highways Nos. 50 and 99 between Sacramento and Stockton, including all points within 20 miles of the city limits of Stockton;
- (5) U.S. Highway No. 99 between Stockton and Turlock;
- (6) State Highway No. 4 between Pinole and Stockton;
- (7) U.S. Highways Nos. 101 and 101 By-Pass between San Francisco and San Jose;
- (8) State Highways Nos. 4, 9, 21 and 17 between junction U.S. Highway No. 4 near Pinole and San Jose;
- (9) State Highway No. 9 between Milpitas and Mountain View.

Through routes and rates may be established between any and all points specified in subparagraphs (1) through (9) above.

- B. Between all of the points described in subparagraph A, on the one hand, and points on and along and within 10 miles laterally of the following described routes, on the other hand:

- (1) U.S. Highway No. 99 between Turlock and Fresno;
- (2) State Highways Nos. 33 and 180 between Tracy, Los Banos, Mendota and Fresno;
- (3) U.S. Highway No. 101 between San Jose and Salinas;
- (4) Unnumbered highway between Salinas and Monterey;
- (5) State Highways Nos. 17 and 1 between San Jose and Monterey;
- (6) U.S. Highway No. 101 between Novato and San Francisco;
- (7) State Highway No. 29 between Vallejo and Napa;

Issued by California Public Utilities Commission.

Decision No. 60655, Application No. 41717.

- (8) State Highways Nos. 37 and 42 between Novato and Vallejo;
 - (9) U.S. Highway No. 40 Alternate between Woodland and Marysville;
 - (10) State Highway No. 16 between Woodland and Sacramento;
 - (11) U.S. Highway No. 40 between Sacramento and Roseville;
 - (12) U.S. Highway No. 99-E between Roseville and Marysville.
- C. For operating convenience only, applicant may make use of any street, road, highway, ferry, or toll bridge necessary or convenient for the purpose of performing the service herein authorized.

Issued by California Public Utilities Commission.

Decision No. 60655, Application No. 41717.