

Decision No. 61108**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN W. ASHFORD, WILLIAM D. SORENSON,)
 GORDON H. BALL and MILLEN L. SIMPSON,)
 partners doing business as BASSCO) Application No. 42015
 DRAYAGE, for a certificate of public)
 convenience and necessity to operate)
 as a highway common carrier.)

Handler & Baker by Daniel Baker, for applicant.
Frank Loughran, for Warren Transportation,
Biggie Drayage Co., and Bruce R. Geernaert,
 for Sheedy Drayage Co., & G. W. Thomas Drayage Co.,
 protestants.

O P I N I O N

John W. Ashford, William D. Sorenson, Gordon H. Ball and Millen L. Simpson, partners doing business as Bassco Drayage, request authority to operate a highway common carrier service for the transportation of (1) construction, mining and logging machinery, equipment, materials and supplies and (2) commodities which by reason of size, weight or bulk require special equipment or handling, and materials, parts or supplies that are appurtenant to or a necessary part of such commodities, in an area bounded by Garberville, Red Bluff and Susanville on the north and Monterey, Fresno and Cedar Grove on the south. Between certain points the proposed service is restricted against transportation of shipments subject to a minimum weight of 10,000 pounds or less or subject to a rate applicable to a shipment of 10,000 pounds or less.

Public hearing were held before Examiner Thomas E. Daly in Oakland and San Francisco with the matter being submitted on August 5, 1960, upon receipt of briefs since filed and considered.

Applicants are presently engaged in the transportation of heavy and bulky machinery and equipment as a permitted carrier. They own and operate approximately thirty-four pieces of equipment. As of October 31, 1959, they showed a net worth of \$20,857 and for the year ending April 30, 1960 realized a net profit of \$6,680.45.

Applicants propose daily, on-call service Monday through Friday. The proposed rates will be comparable to those set forth in Minimum Rate Tariff No. 2.

The record indicates that applicants have operated since January 1, 1952. Their principal office and terminal is located at 685 Delaware Street, Berkeley. Said facility contains approximately 50,000 square feet. Located thereon is a terminal building and shop area. Applicants are partners, with John W. Ashford and William D. Sorenson being general partners and Millen L. Simpson and Gordon H. Ball as limited partners.

According to the testimony of John W. Ashford applicants transport many oversize and overweight shipments which require special permission and permits to be acquired from the State Division of Highways. Special pilot cars are required for these movements. Applicants seek to transport all classes of construction equipment, material and supplies because in many cases they assertedly transport heavy machinery weighing as much as 25,000 pounds and customers will add miscellaneous commodities to the shipment to take advantage of truck load rates.

Mr. Ashford stated that the firm's volume of business has steadily increased. Substantial water, power and other natural resource developments are under way and are planned for the future. In addition, local and federal highway programs and building constructions have made demands upon applicants' service. Movement between the points involved in the proposed area include both occasional and regular shipments. Shipments to a construction site may extend over

a period of several weeks, during the beginning and the completion of a job.

Fifteen public witnesses testified on behalf of applicants and the testimony of ten others was stipulated. For the most part these individuals represented companies engaged in heavy construction work. They ship to all points in the proposed area such commodities as tractors, scrapers, graders, rollers, loaders, compactors, cranes, reinforcing and structural steel, steam generators, generators, welders and drag lines. There are occasions when they will ship to a construction site and between construction sites. They presently use applicants' service and are completely satisfied. Time in transit is important and the service required is of a specialized nature. The carrier's drivers must be skilled in handling and operating the heavy equipment which is being transported, for it is the driver's duty to load and unload such equipment. All of the witnesses stated that they would use applicants' proposed service if authorized.

Of the four protestants only Sheedy Drayage Co. possesses certificated intrastate authority in the proposed area. It acquired said authority by Decision No. 59769 dated March 8, 1960. All of the protestants possess interstate authority and request that any intrastate certificate if granted be restricted against registration with the Interstate Commerce Commission. It is contended that Congress by virtue of the Second Proviso of Section 206(a)(1) of the Interstate Commerce Act has delegated to the respective states the right to determine public convenience and necessity. It is further contended that the Commission has the power to restrict the registration of an intrastate certificate as requested.

If it be assumed the Commission has jurisdiction to restrict its certificates against registration with the Interstate Commerce Commission, there is no evidence in this record that public convenience and necessity require the imposition of such a limitation. Therefore no restriction will be imposed.

Applicants are 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.

After consideration the Commission finds and concludes that public convenience and necessity require the granting of the authority sought.

O R D E R

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to John W. Ashford, William D. Sorenson, Gordon H. Ball and Millen L. Simpson authorizing the transportation of property as a highway common carrier between the points and over the routes set forth in Appendix A attached hereto.

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

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their 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 the public, applicants 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 22nd day of November, 1960.

Clement B. Hoag
President

John S. [unclear]

Theodore H. Jenner

Commissioners

I concur with result but dissent from the provisions of the first full paragraph on page 4

-5- [unclear] [unclear] [unclear]
I concur in the concurrence and dissent
C. L. Fox

Applicants by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport the following commodities:

- (a) Construction, mining and logging machinery, equipment, materials and supplies; and
- (b) Commodities which by reason of size, weight or bulk require special equipment or handling, and materials, parts or supplies that are appurtenant to or a necessary part of such commodities.

Between all points on or within 25 miles of the following routes:

1. U. S. Highways 101 and 101 By-Pass between Garberville and Salinas, inclusive.
2. State Highway 1 between Leggett Valley and Monterey, inclusive.
3. State Highways 9 and 17 between Oakland and Santa Cruz, inclusive.
4. U. S. Highways 40 and 40-Alternate between San Francisco and the California-Nevada state line, inclusive.
5. U. S. Highway 50 between San Francisco and the California-Nevada state line, inclusive.
6. U. S. Highways 99, 99-E and 99-W between Red Bluff and Fresno, inclusive.
7. State Highway 36 between Red Bluff and Johnstonville, inclusive.
8. U. S. Highway 395 between Johnstonville and the California-Nevada state line and between the California-Nevada state line and Independence, inclusive.
9. State Highway 20 between Calpella and junction with U. S. Highway 40 near Cisco, inclusive.

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10. State Highway 128 between State Highway 1 near Albion and Winters, inclusive.
11. State Highway 12 between Santa Rosa and San Andreas, inclusive.
12. State Highway 29 between Upper Lake and Vallejo, inclusive.
13. State Highway 16 between State Highway 20, near Wilbur Springs, and Drytown, inclusive.
14. State Highway 32 between Orland and State Highway 36 near Childs Meadow, inclusive.
15. Unnumbered highway between U. S. Highway 40-A, near Honcut, to junction with State Highway 89, near Quincy, via La Porte and Nelson Point.
16. State Highway 89 between State Highway 36 near Chester and U. S. Highway 395 near Coleville.
17. State Highway 49 between Sattley and Mariposa, inclusive.
18. State Highway 4 between U. S. Highway 40, near Pinole, and State Highway 89, near Markleeville.
19. State Highway 88 between Stockton and Woodfords, inclusive.
20. State Highway 24 between Oakland and Marysville, inclusive.
21. State Highway 108 between Sonora and U. S. Highway 395, near Fales Hot Springs, inclusive.
22. State Highway 120 between U. S. Highway 50, near Lathrop, and Lee Vining, inclusive.
23. State Highway 140 between State Highway 33, near Gustine, and Yosemite, inclusive.
24. State Highway 41 between Fresno and Yosemite, inclusive.
25. State Highway 33 between U. S. Highway 50, near Tracy, and Mendota, inclusive.

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26. State Highway 152 between Watsonville and Califa, inclusive.
27. State Highway 180 between Mendota and Cedar Grove, inclusive.
28. State Highway 168 between State Highway 41, near Pinedale, and Lake Florence, inclusive.
29. Unnumbered highway paralleling north fork of Kings River between State Highway 180, near Centerville, and Balch Camp, inclusive.
30. State Highway 132 between Vernalis and Coulterville, inclusive.
31. State Highways 37 and 48 between U. S. Highway 101, near Ignacio, and Vallejo, inclusive.
32. State Highway 45 between Knight's Landing and State Highway 32, near Hamilton City, inclusive.

CONDITIONS:

Applicants shall transport no shipment subject to a minimum weight of 10,000 pounds or less or subject to a rate applicable to a shipment of 10,000 pounds or less to, from or between the following points:

1. Points on U. S. Highway 50 between Placerville and the California-Nevada state line, inclusive.
2. Points on State Highway 89 between U. S. Highways 40 and 50.
3. Points on U. S. Highway 395 between Independence and the California-Nevada state line, inclusive.

End of Appendix A.

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