

ORIGINALDecision No. 61615

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRED L. MATT, an individual doing)
 business as MATT TRANSFER & STORAGE,)
 for a certificate of public conveni-)
 ence and necessity in lieu and in ex-)
 tension of his highway common carrier)
 authority.)

Application No. 42883

Handler and Baker, by James F.
Mastoris, for applicant

O P I N I O N

In this application, filed on November 28, 1960, Fred L. Matt, doing business as Matt Transfer & Storage requests authorization to expand and enlarge his highway common carrier operating rights in order to transport general commodities, with certain exceptions, between Sacramento and surrounding cities and points in the San Joaquin Valley, on the one hand, and San Francisco and certain points in the San Francisco Bay Area, on the other hand. The applicant also requests that should the authority requested be granted that a restatement of applicant's present authority plus the authority granted be issued.

A public hearing on this application was held before Examiner Martin J. Porter in San Francisco on January 27, 1961, at which time evidence was presented by the applicant and the matter submitted.

There were no protests to this application.

This carrier, under his present certificate, possesses authority to transport general commodities between Sacramento and various points in the San Joaquin Valley. In addition to his certificate, applicant possesses radial highway common

carrier, highway contract carrier, household goods carrier and city carrier permits.

The applicant presented evidence in support of the authority requested, that customers request service to and from the extended territory proposed to be served, particularly with respect to points along U. S. Highway 40, California State Highway 24 and U. S. Highway 50 between Sacramento and San Francisco.

Applicant attempts to provide this service now with mixed certificate and permit operations.

Exhibit No. 3 shows an operating profit of \$7,578.59 for a nine month period ending September 30, 1960.

Exhibit I lists 25 pieces of operating equipment.

Shipper witnesses testified that they used applicant's service; that he was prompt as to pick up and delivery and provided a Saturday service which was necessary for their business. Their business was expanding and the lateral extension sought was necessary to meet the needs of their customers, who were located off the main highways. The present authority of the applicant did not meet their needs because of its limited nature; they could not have the advantage of split delivery rates when points of destination are both within and without the present certificated area. They would use the proposed service if it is authorized.

Exhibits 7 and 8 were substantial lists of customers who used applicant's service and presented a wide variety of commodities shipped to and from points sought in this application.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted.

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

Application having been filed, a public hearing having been held, and based on the above findings,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Fred L. Matt, 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.

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 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 Order Nos. 99 and 100-A may result in a cancellation of the operating authority granted by this decision.

(b) Within one hundred and twenty 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 certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificate of public convenience and necessity granted by Decision No. 56178, dated January 28, 1958, in Application No. 36032, which certificate is hereby cancelled and revoked, said revocation 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 7th day of March, 1961.

President
[Signature]
George T. Brown
[Signature]
Fredrick B. Holberg
[Signature]

Commissioners

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

Fred L. Matt, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

- A. Between all points within a radius of 25 miles of Sacramento.
- B. Between all points on and within 15 miles laterally of the following highways:
 1. U.S. Highway 40 between San Francisco and Sacramento, inclusive.
 2. U.S. Highway 50 between San Francisco and Sacramento, inclusive.
 3. State Highway 24 between Oakland and Sacramento, inclusive.
 4. State Highway 4 between Stockton and Junction U.S. Highway 40, inclusive.
 5. State Highway 12 between Lodi and Junction U.S. Highway 40, inclusive.
 6. U.S. Highway 99 between Sacramento and Turlock, inclusive.
 7. State Highway 120 between Manteca and Oakdale, inclusive.
- C. Through routes and rates may be established between any and all points described in subparagraphs A and B, 1 through 7, above.

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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. Automobiles, trucks and buses; viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. 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.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hoppper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

End of Appendix A

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