

ORIGINAL

Decision No. 61693

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DAIGE & STEWART TRUCK CO., a
corporation, for removal of certain
restrictions from its Certificates
of Public Convenience and Necessity.

Application No. 43037

OPINION AND ORDER

Daigh & Stewart Truck Co., a corporation, presently rendering service as a highway common carrier, requests that its certificate be amended by eliminating therefrom the following restriction:

"limited to commodities originating at or destined to an oil well site, construction site, or farm, or originating at or destined to a storage yard."

The applicant is now operating under a certificate of public convenience and necessity granted by Decision No. 44873, dated October 3, 1950, in Application No. 30309 and acquired by Decision No. 45305, dated January 30, 1951, as modified by Decision No. 45367, dated February 20, 1951, in Application No. 31937. The certificate was amended by Decisions Nos. 53960 and 54124, in Application No. 38404.

These decisions authorize the applicant to transport the commodities described below over all of the principal highways in California, with the right to make lateral departures therefrom within a radius of 50 miles of such highways:

"....Property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casing-head plants, equipment and material used in construction and equipment used in farming...."

The applicant also operates as a petroleum irregular route carrier under a certificate granted by Decision No. 44397, dated June 20, 1950, in Application No. 31213 and acquired by Decision No. 45726, dated May 22, 1951, in Application No. 32308, and under permits as a radial highway common carrier, a highway contract carrier and a city carrier.

Prior to the filing of the application, applicant served copies thereof on the carriers listed in Exhibit D of the application. There were no protests and a public hearing is not necessary.

It is alleged that oil well operations in this State have been steadily declining during the past several years due to comparatively inexpensive oil being imported from the Near and Middle East. The remaining business in local fields is divided among both certificated and permitted carriers. The latter are not restricted to providing service within a given area and are able to offer a much broader and more flexible service than the applicant. It is further alleged that it is necessary that applicant be authorized to transport shipments, other than those originating at or destined to oil well or construction sites, storage yards, or farms, so it may provide needed service on a basis competitive with other certificated carriers and thus be able to adjust its operations to the loss of the bulk of its oil field business.

After consideration the Commission hereby finds and concludes that the removal of the restriction from the certificate held by the applicant will not adversely affect the public interest and that public convenience and necessity require that the application be granted. Applicant's certificate will be restated as set forth in the ensuing order.

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.

O R D E R

An application having been filed and the Commission being of the opinion that it should be granted,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is granted to Daigh & Stewart Truck Co., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

2. That the certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificate of public convenience and necessity acquired by Decisions Nos. 45305 and 45367, as amended by Decisions Nos. 53960 and 54124, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

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

- (b) Within one hundred 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.

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

Dated at San Francisco, California, this 21st day of March 1961.

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners

Daigh & Stewart Truck Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipelines, refineries, and cracking or casing-head plants, equipment and material used in construction, and equipment used in farming:

- (1) Between all points and places on and within 50 miles laterally of the following highways:
 - a. U.S. Highways Nos. 101 and 101 By-Pass between California-Oregon State Line and California-Mexico Line, inclusive;
 - b. U.S. Highways Nos. 99, 99-E and 99-W between California-Oregon State Line and California-Mexico Line, inclusive;
 - c. U.S. Highway No. 299 between Redding and Alturas, inclusive;
 - d. U.S. Highway No. 395 between California-Oregon State Line and California-Nevada State Line, inclusive, via Alturas and Johnstonville;
 - e. State Highway No. 36 between Junction U.S. Highway No. 99-E near Red Bluff and Junction U.S. Highway No. 395 at Johnstonville, inclusive;
 - f. State Highway No. 20 between Marysville and Junction U.S. Highway No. 40, inclusive;
 - g. U.S. Highway No. 40 between San Francisco and California-Nevada State Line, inclusive;

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Decision No. 61693, Application No. 43087.

- h. U.S. Highway No. 50 between Sacramento and California-Nevada State Line, inclusive;
 - i. U.S. Highway No. 395 between California-Nevada State Line at Topaz Lake and Junction U.S. Highway No. 66, inclusive;
 - j. U.S. Highway No. 66 between Los Angeles and Needles, inclusive;
 - k. U.S. Highway No. 60 between Los Angeles and California-Arizona State Line, inclusive;
 - l. U.S. Highways Nos. 91 and 466 between Barstow and California-Nevada State Line, inclusive;
 - m. U.S. Highway No. 80 between San Diego and California-Arizona State Line, inclusive; and
 - n. State Highway No. 127 between Baker and California-Nevada State Line, inclusive.
- (2) Through routes and rates may be established between any and all points and places specified in paragraph 1 above.

End of Appendix A

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Decision No. 61693, Application No. 43087.