

Decision No. 62284

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
G. A. HUTCHINSON, JR., an individual,)
doing business as G. A. HUTCHINSON &)
SON DRAYING, for a certificate of)
public convenience and necessity to)
operate as a highway common carrier.)

Application No. 42965

Bertram S. Silver, for applicant.
Frederick W. Mielke, for Delta Lines, Inc.,
California Motor Express, Ltd., California
Motor Transport Co., Ltd., Fortier
Transportation Company, Shippers Express
Company, Valley Express Company, Valley Motor
Lines, Inc., Merchants Express of California,
Stewart Drayage Lines, protestants.

O P I N I O N

This application was heard before Examiner Thomas E. Daly at San Francisco on February 7, 1961, March 7, 1961 and March 17, 1961. The matter was submitted on the latter date subject to receipt of concurrent briefs, which after one extension of time have since been filed and considered. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are: Delta Lines, Inc., California Motor Express, Ltd., California Motor Transport Co., Ltd., Fortier Transportation Company, Shippers Express Company, Valley Express Company, Valley Motor Lines, Inc., Merchants Express of California, and Stewart Drayage Lines.

Applicant is a highway common carrier engaged in the transportation of general commodities between points in the San

Francisco-East Bay Cartage Zone. He also is authorized to transport specified commodities, i.e., electrical appliances or equipment, paper, paper articles, scales, bottles, and clocks from San Francisco, on the one hand, to points between San Mateo, Hayward, San Jose and intermediate points, on the other hand. In addition thereto, he conducts a permitted operation to points in Marin and Contra Costa counties and occasionally to Sacramento and Stockton. By his application, as amended, applicant requests authorization to conduct operations as a highway common carrier for the transportation of general commodities between all points and places over and along the following routes and all points and places within ten miles thereof:

1. All points and places in the San Francisco Territory, as described in Minimum Rate Tariff No. 2.
2. State Highway 9 between Sunnyvale and Saratoga.
3. State Highway 17 between Santa Clara and Los Gatos.
4. U. S. Highway 101 between San Francisco and Petaluma.
5. U. S. Highway 40 between San Francisco and Vallejo.
6. U. S. Highway 50 between San Francisco and Livermore.
7. State Highway 4 between Pinole and Antioch.
8. State Highway 24 between Oakland and Antioch.
9. State Highway 21 between Benicia and Mission San Jose.

Applicant proposes the same scale of rates as those contained in Minimum Rate Tariff No. 2 and other applicable minimum rate tariffs of the Commission. He would also apply the same rules and regulations which are now effective under his tariffs.

Applicant stated that he commenced his trucking operation on March 17, 1934, with one truck and one customer. At the present time he has approximately 150 customers and nine pieces of equipment. He owns and maintains a terminal and private warehouse at 1515 Third Street, San Francisco. As of October 31, 1960, applicant indicated a net worth in the amount of \$50,251.21. For the ten months ending October 31, 1960, he indicated a net carrier operating income of \$23,880.05. Applicant assertedly filed the instant application because of the increasing requests by his customers for extended service. Many of his customers, he stated, have moved from San Francisco to outlying points and wish to continue to make use of his service. In many instances, he claims, customers wish him to completely clear their docks. He obliges such customers by picking up all shipments and turning over all shipments he cannot transport to other carriers. He also stated that he filed the application because numerous carriers have received recent extensions of their operative rights thus placing him at a competitive disadvantage.

Applicant introduced the testimony of three public witnesses. Two witnesses testified on behalf of the American Can Company. Each represented separated and independent divisions of said company. One represented the Marathon Division and the other represented the Northern Paper Mills. The third public witness represented the Shalian Paper Company. These witnesses testified that they have occasion to ship such commodities as paper products, machinery for paper products, chemicals, electric supplies and janitorial supplies. They use applicant on a daily basis and are completely satisfied with the service because it is expeditious and

reliable. They find it a convenience to have applicant pick up all of their shipments and are inconvenienced only by delays on shipments turned over to other carriers by applicant. They have occasion to ship to the proposed area and would use applicant's extended service if authorized.

Affirmative showings on behalf of protestants were made by Delta Lines, Inc., Merchants Express of California, California Motor Express, Ltd., Stewart Drayage Lines and Valley Motor Lines. Each introduced evidence relating to their equipment and terminal facilities. They all offer a daily overnight service in the proposed area. They claim that competition is very keen; that they can handle more traffic and that the granting of additional certificates would lead to a dilution of business with resulting financial losses.

Applicant, whose history has been that of a drayman, argues that the area sought to be served by his application, as amended, would authorize him to serve what is, from an economic standpoint, the ~~commercial distribution~~ ^{commercial distribution} area of San Francisco and Oakland. In brief, the area has assertedly experienced a tremendous economic growth and development which, as a result of new freeways, improved and faster means of transportation and the decentralization of industry, has led to a more expansive drayman's area of operation. By requesting the removal of the commodity restrictions existing in his present certificate and the limited area extensions, it is contended that applicant is merely seeking authority to do what he has always done, i.e., serve shippers located in the Bay area in the new economic drayage area. To deny applicant such authority, it is argued, would place many local draymen in a better

competitive position than they have customarily enjoyed because of recent authorized extensions of their operations.

It is further argued that nearly all of the protestants herein have been authorized in the past year or so to extend their respective services; that in some instances they sought to serve within the area covered by the instant application and in each case it was contended that public convenience and necessity required such extensions; that the protestants' inconsistent claim or disclaim of the public's need for service depends upon whether or not it is selfishly expedient.

With respect to dilution of traffic and financial loss, applicant argues that notwithstanding the many certificates issued in the past few years the financial reports of the various protestants indicate that not only have their gross incomes substantially increased, but they also indicate a marked increase in the number of their employees and the pieces of equipment owned and operated.

Protestants argue that with two witnesses representing one company there were in effect only two public witnesses called; that the proposed area is completely saturated with service and that the applicant's case falls far short of a showing of public convenience and necessity.

The Commission in granting certificates of public convenience and necessity is guided by the record made. It does not grant them as a matter of course merely because they are requested or because they have been granted to competing carriers. Each applicant must make its own case.

In the instant proceeding applicant's showing is insufficient to support a finding of public convenience and necessity. The application will therefore be denied.

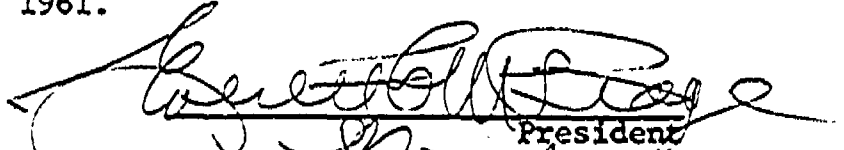
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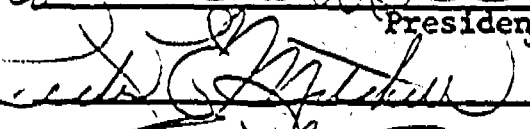
Application having been filed and the Commission being informed in the premises,

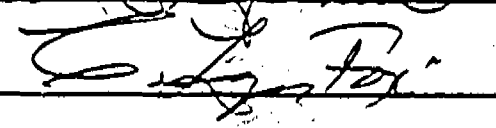
IT IS ORDERED that Application No. 42965 is hereby denied.

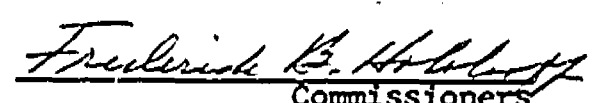
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 18th day of July, 1961.



President






Commissioners