

**ORIGINAL**Decision No. 62596

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 B. C. LAWSON DRAYAGE, INC., a  
 corporation, for a certificate of  
 public convenience and necessity to  
 operate as a highway common carrier.

Application No. 43019  
 (Filed January 3, 1961)

Bertram S. Silver & William L. Cole, for B. C.  
 Lawson Drayage, applicant.

Graham, James & Rolph, by Boris H. Lakusta and  
Leo J. Vander Lans, for Associated Freight  
 Lines; California Motor Express, Ltd. and  
 California Motor Transport Co., Ltd.; Delta  
 Lines, Inc.; Di Salvo Trucking Co.; Fortier  
 Transportation Co.; Interlines Motor Express;  
 Merchants Express of California; Oregon-Nevada-  
 California Fast Freight and Southern California  
 Freight Lines; Pacific Motor Trucking Co.;  
 Shippers Express; Valley Express Co., and  
 Valley Motor Lines, Inc.; and Willig Freight  
 Lines, protestants.

Mitchel Derish, for Merchants Express of Califor-  
 nia, protestant.

B. E. Rowland, for Delta Lines, Inc., protestant.

O P I N I O N

This application was heard before Examiner Martin J. Porter at San Francisco on March 10, 24, May 3, 4, and 5, 1961, on which latter date it was submitted. Copies of the application and notice of hearing were served in accordance with the Commission's procedural rules.

Applicant is a highway common carrier presently transporting general commodities between points in the San Francisco-East Bay Cartage Zone. Applicant requests authorization to extend its highway common carrier operations to transport general commodities in Marin County, Stockton, Sacramento, the Peninsula and East Bay as far south as San Jose. Applicant proposes daily service except

Sundays and holidays at rates set forth in Minimum Rate Tariff No. 2, other applicable minimum rate tariffs of the Commission and his presently effective rules and regulations.

Exhibit No. 4 contains a list of applicant's equipment. Applicant testified that there would be no difficulty in obtaining additional equipment if required.

Exhibit No. 6, a profit and loss statement for the ten-month period ending October 31, 1960, shows a net income of \$5,200.96 after Federal Income Tax.

A summary of the testimony of shipper witnesses presented by the applicant shows each used applicant's present service and found it to be excellent, particularly with respect to the movement of heavy equipment and machinery. Some shippers have limited dock space for loading and unloading of trucks and felt that if applicant's certificated authority were to be extended they would be able to reduce the number of trucks using this space by a greater utilization of applicant's service. Applicant has been providing services to and from points in all of the area for which authority is sought. However, the use of applicant's service into the Marin area was not as frequent as the use to the Peninsula, Stockton and Sacramento areas.

The protestants presented evidence through shipper witnesses and witnesses representing California Motor Transport Company, Ltd.; Pacific Motor Trucking Company; Merchants Express of California; Valley Express and Valley Motor Lines; Associated Freight Lines and Delta Lines. Shipper witnesses appearing in behalf of protestants testified that they are now adequately served by existing highway common carriers in the areas sought to be served by applicant; that they had limited dock space and time to devote to traffic solicitors;

and that the additional certification of applicant would increase their problems by further increasing dock congestion and by increasing the number of traffic solicitors who call upon them soliciting their freight. These witnesses also expressed the fear that additional certification of highway carriers would tend to dilute the amount of existing freight available to present certificated carriers, consequently resulting in increased transportation rates.

The witnesses representing the above-mentioned protesting carriers presented evidence directed towards showing that, as highway common carriers, they now serve the area sought by applicant and that they have sufficient equipment, facilities, personnel and resources to continue this service. They expressed the view that there is now an overabundance of certificated carriers in the area and any additional certification will only increase competition for the existing freight. They contend that dilution of the existing freight available to them will reduce the load factor on their trucks and make it difficult to get efficient use of the wage dollar, a fact which could result in a request for increased rates. While this may be true as a general proposition, the evidence before us in this particular case would not support such a finding.

The protestants at the conclusion of their presentation made a motion that this application be argued before the Commission en banc. Said motion is denied.

Upon consideration of the evidence the Commission finds and concludes as follows:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the service herein authorized. ✓  
✓

2. Public convenience and necessity require that the application be granted in part 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

Public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to B. C. Lawson Drayage, Inc., a corporation, 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 Appendices A and B, 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-B. 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-B, 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. 50991 and thereafter authorized to be transferred to applicant by Decision No. 59866, which certificate is hereby 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 25<sup>th</sup> day of SEPTEMBER, 1961.

[Signature]  
President

[Signature]

Fredrick B. Halbach

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

B. C. Lawson Drayage, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

1. Between all points and places in the San Francisco Territory as described in Appendix B attached hereto.
2. Between all points and places on and within ten miles laterally of the following named highways:
  - a. U. S. Highway 40 between Richmond and Sacramento, inclusive.
  - b. U. S. Highway 50 between Hayward and Sacramento, inclusive.
  - c. State Highway 4 between its junction with U. S. Highway 40 near Pinole and Stockton, inclusive.
  - d. State Highway 24 between Oakland and Sacramento, inclusive.
  - e. State Highway 21 between its junction with U. S. Highway 40 near Cordelia and Fremont, inclusive.
  - f. State Highway 12 between Fairfield and Lodi, inclusive.
  - g. Unnumbered highway known as Clayton Road, Marsh Creek Road and Camino Diablo Road between Concord and Byron, inclusive.
3. Through routes and rates may be established between any and all points described in subparagraphs 1 and 2a through g above.

Issued by California Public Utilities Commission.

Decision No. 62596, Application No. 43019.

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 protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
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 hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Commodities requiring special equipment and handling because of unusual size, weight or shape.
10. Articles of extraordinary value as set forth in Rule No. 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 62596, Application No. 43019.

APPENDIX B TO DECISION NO. 62596

SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwardly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwestwardly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.