

ORIGINAL

Decision No. 61019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ROZAY'S TRANSFER, a corporation,
 for a certificate of public conven-
 ience and necessity as a highway
 common carrier for the transportation
 of additional special commodities
 between points in the Los Angeles
 Territory, pursuant to Sections
 1063-1064 of the Public Utilities
 Code.

Application No. 43976
 (Filed December 1, 1961)

Russell & Schureman, by R. Y. Schureman, for
 applicant.
Arthur H. Glanz and Edwin J. Bieler, for
 protestants.

O P I N I O N

Public hearings were held before Examiner John Power on March 27 and 29, and May 7 and 8, 1962. The matter was orally argued and submitted on the last day. The protestants were: Boulevard Transportation Co., California Cartage Co., California Motor Express, Ltd., Delta Lines, Inc., Di Salvo Trucking Co., Merchants Express of California, Southern California Freight Lines, Pacific Motor Trucking, Shippers Express Co., Sterling Transit Co., Valley Motor Lines, Inc., and J. D. Transportation Co. Notice was given according to the Commission's procedural rules.

Applicant is a highway permit carrier of general commodities. It is a certificated carrier of specific commodities in the Los Angeles Territory except for shipments having both origin and destination in the Los Angeles Drayage area defined in Items Nos. 30-33 inclusive of Minimum Rate Tariff No. 5.

The present application seeks authority to carry general commodities in the identical area, with the same exception. No new territory is sought. Applicant is now a party to an agency tariff for the commodities it is presently authorized to carry. It proposes to establish rates for additional commodities substantially in accord with the same tariff.

Applicant offered seventeen public witnesses in support of the application in addition to its president who acted as operating witness. Applicant has had the problem that limited commodity carriers frequently meet, namely, that some shippers ship commodities both authorized and unauthorized by their certificates. Furthermore, since it operates over regular routes, it is embarrassed in providing permitted carrier service.

The public witnesses were shippers of broad groups of commodities. They liked the service rendered by Rozay. Speed and reliability were emphasized. One witness, whose commodity (plastics) was often incorporated with other products in further manufacture, mentioned the fact that the plastics must arrive on schedule at the plant of consignees. Three witnesses make, or in the past have made, some use of their own trucks and believed it would be advantageous to use Rozay instead. Rozay's same-day deliveries appealed to most of the witnesses.

Protestants presented four witnesses through whom 21 exhibits were put in evidence. These witnesses and exhibits indicated the scope of their operations.

The Commission finds:

1. Applicant has the requisite financial resources, experience, personnel and equipment to operate the service proposed in the application.

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

Rozay's Transfer, a corporation, 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, public hearings having been held, and based on the evidence therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity be and it is granted to Rozay's Transfer, 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 more particularly set forth in Appendix A. attached hereto and hereby made a part hereof.

2. 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 twenty days after the effective date hereof, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs satisfactory to the Commission.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.

3. Appendix A of Decision No. 60870, as amended, is further amended by incorporating therein Second Revised Page 1, attached hereto, in revision of First Revised Page 1.

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

Dated at San Francisco, California, this 31st day of JULY, 1962.

John E. Mitchell
 President

E. J. ...

Robert ...

Fredrick B. ...
 Commissioners

Rozay's Transfer, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

All points and places within the Los Angeles Territory as described in Appendix B hereto attached, except that applicant shall not transport shipments between any two points both of which are located in the Los Angeles Drayage area as described in Appendix C attached hereto.

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. Wearing apparel on hangers.

Issued by California Public Utilities Commission.

Decision No. 64049, Application No. 43976.