

ORIGINALDecision No. 67884

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SOPHIE W. JAKOBSEN, doing
business as TRANS-BAY MOTOR EXPRESS
CO., for an extension and enlargement
of certificate of public convenience
and necessity as a highway common
carrier.

Application No. 45650
(Filed August 7, 1963;
Amended October 30, 1963)

Scott Elder, for applicant.

Graham, James and Rolph, by
Boris H. Lakusta and
E. Myron Bull, Jr., for
protestants.

O P I N I O N

Duly noticed public hearings were held herein before Examiner Power on October 30 and 31, 1963 and January 15 and 16, 1964, and the matter was submitted on the last-named date subject to the filing of briefs. The last of these was received on April 3, 1964, and the matter is ready for decision.

Applicant has a certificate of public convenience and necessity as a highway common carrier of general commodities. Her service area is bounded generally by Santa Rosa, Sacramento, Fresno and Salinas. The authority has certain peculiarities which will be discussed hereinafter in conjunction with the issues of convenience and necessity and diversion of traffic.

By the instant application, applicant seeks to extend her authority to include Fort Ord, Seaside, Monterey, Pacific Grove, Carmel, Carmel Valley and intermediate points.

The application was protested by the California Motor Transport Co., California Motor Express Ltd., Delta Lines, Inc., Garden City Transportation Company, Merchants Express of California, Pacific Motor Trucking Company and Southern California Freight Lines.

Applicant presented her general manager and twelve public witnesses in support of the application. All praised the service highly and believed that a grant of this application would have a beneficial effect on their businesses. The witnesses are tabulated below in order of their appearances.

<u>Witness No.</u>	<u>Shipping Point</u>	<u>Commodities Shipped</u>
1	Oakland	Brushes, aerosol products, cosmetics
2	South San Francisco	Service station equipment
3	San Francisco	Audio-visual products
4	San Francisco	Miscellaneous food products
5	Oakland	Variety store commodities
6	San Francisco	Paper boxes
7	South San Francisco	Commodities redeemable by trading stamps
8	South San Francisco	Model hobby supplies
9	San Leandro	Lighting fixtures
10	Oakland	Cleaning compounds, insecticides, toilet preparations
11	San Francisco	Drug sundries
12	Oakland	Toys

One aspect of the traffic offered by these witnesses is that, with the possible exception of Nos. 2 and 4, they all ship a commodity or some commodities that are fragile or perishable, either in themselves or in their packaging.

In addition to general support of the service of Trans-Bay, the witnesses pointed out certain specific features of the service. Six of them emphasized the simplicity of tracing. Three mentioned what they thought was unusually good loss and damage experience. One of these three stated that his loss and damage experience with Trans-Bay was so good that he could use a release value on his merchandise, thus effecting a saving in shipping costs. Two emphasized the simplicity of dealing with Trans-Bay. Three believed that Trans-Bay had made fewer mistakes than other carriers. Only two mentioned unsatisfactory service from other carriers.

The points stressed by the witnesses and the types of commodities that many of them ship require an examination of the limitations in applicant's certificate which are related directly to such commodities.

Applicant's certificate was granted by Decision No. 60415 in Application No. 41910 in 1960. It authorizes transportation of general commodities with four exceptions. Paragraph 3, Original Page 2 thereof, authorizes transport of such commodities from San Francisco, South San Francisco, Oakland, Alameda, Berkeley, Albany, El Cerrito, Richmond, San Jose, Los Gatos and points on U. S. Highway 101 between San Jose and South San Francisco to (a) Salinas and points on U. S. Highway 101 intermediate between San Jose and Salinas and (b) Santa Cruz, Watsonville, Castroville and points on State Highways 17 and 1 between Los Gatos and Salinas.

Exception No. B.4., Original Page 3, reads:

"B. Sophie W. Jakobsen shall not transport any shipments of:

* * *

"4. Parcels or packages which weigh in excess of 200 pounds, nor shall applicant accept or transport any shipment, including any split pickup and any split delivery shipment, to which is applicable a rate subject to a minimum weight exceeding 20,000 pounds."

Applicant is not authorized to perform inbound hauls, except of returned parcels previously delivered by her. Though the certificate does not specifically so provide, the operation has been conducted through a single terminal.

Applicant specializes in light freight, her average shipment being 166 pounds and her terminal and equipment being specially designed for this type of lading.

It is easy to see how these certificate limitations could be attractive to shippers of fragile or perishable freight and why such shippers would have a favorable experience with this carrier.

In an amendment to her application, applicant seeks to add thirteen standard exceptions. She presently does not offer interstate service and requested no authority to do so in this application.

Protestants produced four witnesses, each representing one of the protesting companies. They testified that present service to the requested points was adequate; that they have space available on their own schedules for more lading; and that granting the application would result in diversion of traffic from existing carriers with possible reductions of service by them.

These carrier witnesses testified generally that they have space available but did not state how much, or at what season, or on what days of the week. The testimony on diversion of traffic was not specific either. The witnesses assumed that a newly certificated carrier would divert traffic from existing common carriers, which may or may not be true.

Protectants contended also that increased competition tends to drive rates upward. Ratemaking is a complicated process based on many factors. Such statements respecting the effect of new certificates have little probative value.

The Commission finds that:

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

2. The transportation service now available is not adequate to satisfy the shippers' needs.

3. A grant of the application will not adversely affect protestants.

4. Public convenience and necessity require that applicant be authorized to transport general commodities, with eighteen specified exceptions, between the points set forth in the application.

The Commission concludes that the application should be granted as hereinafter provided.

Sophie W. Jakobsen 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Sophie W. Jakobsen authorizing her 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 First Revised Page 2 of Appendix A attached hereto and made a part hereof.

2. Appendix A of Decision No. 60415, dated July 12, 1960, in Application No. 41910, is amended by incorporating therein First Revised Pages 2 and 3, attached hereto, in revision of Original Pages 2 and 3 and by adding thereto Original Page 4, attached hereto.

3. Said Decision No. 60415 is continued in full force and effect as herein amended.

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

Dated at San Francisco, California, this 23rd day of September, 1964.

Fredrick B. Hallock
President
W. E. ...
Went ...
William ...

Commissioner George G. Grover
present but not voting.

Commissioners

- (e) Points and places on State Highway 24 between Oakland and Pittsburg; and points and places on State Highway 21 between Martinez and Mission San Jose; and also, to points and places within five miles of said highways and points and places within a five-mile radius of said terminal cities hereinabove named.
3. From San Francisco, South San Francisco, Oakland, Alameda, San Leandro, Emeryville, Berkeley, Albany, El Cerrito, Richmond, San Jose, Los Gatos and points on U. S. Highway 101 between San Jose and South San Francisco to:
- (a) Salinas and points on U. S. Highway 101 intermediate between San Jose and Salinas;
- (b) Santa Cruz, Watsonville, Castroville, Fort Ord, Seaside, Monterey, Pacific Grove, Carmel, Carmel Valley, points on State Highways 17 and 1 between Los Gatos and Castroville, points on State Highway 1 between Castroville and Carmel, points on the unnumbered highway between Carmel and Carmel Valley and points on State Highway 68 between Salinas and Monterey.
- (c) Yountville and points on State Highway 29 between Napa and Yountville;
- (d) Sonoma, Sebastopol and Graton and points on State Highway 12 between Napa and Graton;
- (e) Roseville and points on U. S. Highway 40 between Roseville and Sacramento; Folsom and points on U. S. Highway 50 between its junction with the unnumbered road near Folsom and Sacramento, and Woodland and points on State Highway 16 between Woodland and Sacramento and points on State Highway 24 between Sacramento and Antioch; also points on U. S. Highway 99 between Sacramento and Stockton; and
- (f) Fresno and points on U. S. Highway 99 between Fresno and the junction of U. S. Highway 99 with State Highway 120 near Manteca; Mendota and points on U. S. Highway 33 between its junction with U. S. Highway 50 near Tracy and its junction with U. S. Highway 180 near Mendota.

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With authority to operate also over all points on U. S. Highway 180 between Kerman and Fresno, U. S. Highway 152 between Chowchilla and Watsonville, U. S. Highway 132 between Modesto and Vernalis and U. S. Highway 99W between Woodland and its junction with U. S. Highway 40 near Davis.

4. From San Jose, Los Gatos, and points on U. S. Highway 101 between San Jose and South San Francisco to San Francisco, South San Francisco, Oakland, Alameda, San Leandro, Emeryville, Berkeley, Albany, El Cerrito, Richmond, and other points served under such certificate.

Engaging also in the return transportation of parcels, packages, and pieces previously delivered by applicant.

B. Sophie W. Jakobsen 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 Item No. 5 of Minimum Rate Tariff No. 4-B.
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, live poultry, mules, 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 semi-trailers, or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.

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7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Fresh fruits and vegetables, nuts in the shell and mushrooms, from point of growth or from accumulation points to canneries, packing sheds, precooling plants, wineries and cold storage plants.
9. Explosives as described in and subject to the regulations of Motor Carriers' Explosives and Dangerous Articles Tariff 11, Cal. P.U.C. 6, American Trucking Associations, Inc., Agent, on the issue date thereof.
10. Articles of extraordinary value as set forth in Rule 3 of Western Classification 78, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
11. House trailers, trailers other than house trailers, portable units designed for human occupancy other than trailers, and parts, contents or supports for such articles when accompanying such equipment.
12. Furniture, as described under that heading in Western Classification 78, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof, and lamp shades or reflectors and lamp standards or electric lamps and shades combined when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped).
13. Garments on hangers.
14. Baled hay, fodder and straw.
15. Logs.
16. Merchandise after sale by retail department or specialty stores to their customers.
17. Parcels or packages which weigh in excess of 200 pounds and shipments, including any split pickup and any split delivery shipment, to which is applicable a rate subject to a minimum weight exceeding 20,000 pounds.
18. Portland or similar cements, in bulk or packages when loaded substantially to capacity of motor vehicle.

End of Appendix A

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