

ORIGINALDecision No. 69749

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MORRIS DRAYING COMPANY, a corpora-)
 tion, for an order granting a)
 limited suspension of a part of its) Application No. 47883
 certificate of public convenience)
 and necessity authorizing highway)
 common carrier service.)

O P I N I O N

Applicant, Morris Draying Company, a corporation (hereinafter called Morris), is a highway common carrier, as that term is defined in Section 213 of the California Public Utilities Code, authorized to transport general commodities, with limited exceptions, between all points on and within 20 miles of specified routes extending from Salinas and Kingsburg, on the south, to San Francisco and Redding, on the north. Such authority was granted by Decision No. 60077, dated May 9, 1960, in Application No. 41777, as amended by Decisions Nos. 60275 and 62226.

By Application No. 47520, filed April 26, 1965, Morris requested an order suspending, for a period of five months, its highway common carrier authority to transport "Prefabricated buildings on low bed equipment, except transportation of such freight from Newark, on the one hand, to San Leandro and Fresno, on the other hand." The effect of the proposed suspension, it was stated, would be that Morris would transport the excepted traffic under its permitted authorities during the period of suspension rather than under its highway common carrier authority. The Commission, in Decision No. 68998, dated May 4, 1965, granted the suspension sought for a period of five months, commencing May 10, 1965.

On September 10, 1965, Morris filed Application No. 47883, seeking a similar suspension of its highway common carrier authority for a 5-month period commencing October 11, 1965. Morris alleged in its application that it had been selected by Modulux, Inc. (hereinafter called Modulux), to take over the transportation and installation of prefabricated, relocatable structures, manufactured by Modulux at said company's Newark plant. Modulux commenced manufacturing these structures in 1963 and until May 10, 1965, performed the transportation and installation service for these units with its own personnel and equipment. Special tractor-trailer units were designed and constructed and personnel was trained to perform this service. On May 10, 1965, Morris received a temporary 60-day contract to perform the transportation and installation work required by Modulux upon a cost-plus basis. During the 60-day period, applicant was to develop costs of performing this service and, based thereon, to propose rates and charges for the continuation of this work under a long-term agreement. If the manufacturer and carrier could not agree upon the rates and charges to be assessed under a long-term agreement, the manufacturer contemplated re-establishing its proprietary operation for the transportation and installation of its products.

As stated in the previous application and Decision No. 68998, pages 3 and 4, the equipment and driver-installers used by Morris will be devoted to and engaged exclusively in serving Modulux. Transportation and assembling services to be performed under this arrangement are characteristic of a contract motor carrier operation and are not services which can be obtained from a certificated carrier. The types of services to be rendered are not the same as those embraced by the Commission's minimum rate

tariffs and special studies must be made and rates determined as a result thereof that will be satisfactory to the carrier and shipper. The basic structures or modules that will be transported on low-bed trailers are 10 by 32 by 10 feet in size. Certain models of these units have 5-foot roof overhangs, are 42 feet in length, and weigh between 7,500 and 15,000 pounds. On low-bed trailers, these units extend 14 feet 3 inches above the roadbed and, being over height and over width, a special permit must be obtained from the California Highway Patrol to transport any of the prefabricated modules. This traffic, being of abnormal size and weight and requiring use of low-bed equipment for its transportation, is exempt from the rates and rules in the Commission's Minimum Rate Tariff No. 2 (Item No. 40). Applicant states that it knows of no other minimum rate tariff of the Commission or other tariff that provides charges for the transportation of this traffic.

Applicant states that, due to the complex nature of transporting and assembling these prefabricated structures, the 60-day agreement was extended by the parties and operations are continuing under the cost-plus temporary contract. Because of the many problems being experienced and the marked fluctuations in operations and costs incurred therein, it has not been possible to determine the rates and charges to be proposed. The parties are therefore unable, at this time, to enter into the contemplated long-term transportation and assembly agreement.

Morris desires that its certificated authority to transport prefabricated, relocatable structures on low-bed equipment be further suspended and that such authority be not revoked unless and until a long-term agreement is entered into by the parties. In the event the parties reach such an agreement, Morris will request revocation of the portion of the certificate it now seeks to suspend. If no

agreement is reached and Modulux re-establishes its proprietary service, applicant does not desire to give up this authority.

Applicant knows of no motor carrier that possesses the equipment and driver-installers necessary to perform this service. As no motor carrier or carriers can be affected by this application, none has been served with a copy of same. A copy of the application has been sent to the California Trucking Association and Modulux, Inc. A letter dated September 14, 1965 (hereby made a part of the record), was received from the California Trucking Association advising the Commission that it had no objection to ex parte consideration of applicant's request.

The Commission finds that the granting of this application will not be adverse to the public interest. The application should be granted without public hearing.

O R D E R

IT IS ORDERED that Morris Draying Company, a corporation, is authorized to suspend for a period of five months, commencing October 11, 1965, its highway common carrier authority to transport prefabricated buildings on low-bed equipment, except transportation of such freight from Newark, on the one hand, to San Leandro and Fresno, on the other hand.

The effective date of this order shall be October 11, 1965.

Dated at San Francisco, California, this 5th day of OCTOBER, 1965.

Frederick B. Holdoff
 President

George W. Trover

William L. Bennett

Commissioners

-4-Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.