

ORIGINALDecision No. 70470

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SENNA TRUCKING CO., INC., a California corporation, for a certificate of public convenience and necessity to enlarge the commodities authorized to be transported as a highway common carrier between the San Francisco Territory and the Los Angeles Territory.

Application No. 46993
(Filed September 22, 1964)

In the Matter of the Application of MANUEL SENNA, doing business as SENNA TRUCKING CO., for a certificate of public convenience and necessity to operate as a highway common carrier between San Francisco Territory, Los Angeles Basin Territory, San Diego, Sacramento, Stockton and intermediate points.

Application No. 36216

Kellogg and George by Marquam C. George, for Senna Trucking Co., Inc., applicant.
Graham, James & Rolph by Boris H. Lakusta and E. Myron Bull, Jr., for Boulevard Transportation Company, California Cartage Company, California Motor Express and California Motor Transport Co., T.I.M.E. Freight, Inc., Delta Lines, Inc., Di Salvo Trucking Company, Merchants Express of California, Oregon-Nevada-California Fast Freight and Southern California Freight Lines, Pacific Intermountain Express, Pacific Motor Trucking Company, Ringsby-Pacific, Ltd., Shippers Express, Sterling Transit Co., Inc., Valley Express Co. and Valley Motor Lines, Inc., Willig Freight Lines; Handler, Baker & Greene by Raymond A. Greene, Jr., for Doudell Trucking Co., protestants.

O P I N I O N

Applicant possesses a certificate authorizing the transportation of stoves, boilers, pipe (other than clay, concrete or earthen), iron, steel, rubber and scrap metal between San Francisco and Los Angeles territories. By Application No. 46993 it sought to enlarge its certificate to include nonferrous metals, paints and

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related items, machinery, caps, boxes, petroleum products and oils.

Decision No. 68996 which issued in that proceeding contained the following paragraph:

"It is clear that applicant has a problem and that the problem directly affects its service to its customers. On this record only nonferrous metals and machinery could be added to its certificate which would not solve its problem nor benefit some of its leading shippers."

Fearing that the grant of two commodities, need for which had been established, might do applicant more harm than good, the Commission's decision took the form of a conditional revocation of its certificate. The condition was that the revocation would not take effect if a written request for a public hearing was filed within thirty days after service or mailing of the decision. Applicant filed a formal pleading requesting such a hearing. Application No. 36216 was consolidated with Application No. 46993 since the certificate was granted in Application No. 36216.

The request for hearing served to suspend Decision No. 68996 and Senna has continued to operate under its certificate.

Applicant has indicated to the Commission that its circumstances have changed to some extent. As a result it is not now in a position to offer evidence supporting a grant of those requested commodities which were not sustained by evidence in the original hearings. As a result it is willing to resubmit on the present record.

It is apparent that no useful purpose would be served by further hearings. Applicant has little to add to the showing it has already made. The protestants' cases were made and witnesses cross-examined in the prior hearings.

The record shows that shippers of applicant who formerly had only steel articles to be transported now wish to make shipments by applicant of machinery and of other metals such as aluminum, brass, bronze and copper, and that if authority is granted Senna to transport such other metals the shippers will use the expanded service.

The Commission finds that:

1. Public convenience and necessity will require the addition of aluminum, brass, bronze, copper and machinery to the list of commodities applicant is authorized to transport.

2. Applicant has the necessary financial ability, experience, facilities, equipment and personnel to provide the expanded service hereinafter authorized.

3. The evidence does not show that grant of an expanded certificate as requested would adversely affect the services of protestants.

The Commission concludes that aluminum, brass, bronze, copper and machinery should be added to the list of commodities applicant is authorized to transport as a highway common carrier.

Senna Trucking Co., Inc. 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. Decision No. 68996, dated May 4, 1965, in Applications Nos. 36216 and 46993, is hereby vacated and set aside.

2. A certificate of public convenience and necessity is granted to Senna Trucking Co., Inc., 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 particularly set forth in Appendices A, B, and C, attached hereto and made a part hereof.

3. 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 comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D, 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 tariffs, in triplicate, in the Commission's office.
- (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.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

4. The certificate of public convenience and necessity granted in Paragraph 2 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 58659 and amended by Decision No. 59488, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by Paragraph 3(b) hereof.

5. In all other respects, Application No. 46993 is hereby denied.

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

Dated at San Francisco, California, this 22nd day of MARCH, 1966.

Frederick B. Holdhoff
President

George E. [unclear]

George [unclear]

[unclear]

William [unclear]
Commissioners

Senna Trucking Co., Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to transport the following commodities between San Francisco Territory and Los Angeles Territory:

BOILERS, FURNACES, RADIATORS, STOVES, RELATED ARTICLES OR PARTS NAMED. As described in Items Nos. 25400 to 27682.

IRON OR STEEL. As described in Items Nos. 104000 to 107520.

CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN. As described in Items Nos. 50750 to 52620.

ALUMINUM ARTICLES. As described in Items Nos. 13100 to 13812.

BRASS, BRONZE AND COPPER. As described in Items Nos. 30100 to 31000.

MACHINERY. As described in Items Nos. 114000 to 133454.

MISCELLANEOUS COMMODITIES, VIZ.:

Rubber, reclaimed
Rubber, crude
Scrap Metal.

The authority hereinabove set forth does not include the right to render service to, from or between intermediate points.

The term "Items" as used above means the items so designated in National Motor Freight Classification A-8, F. G. Freund, Issuing Officer, on the issue date thereof, including Supplements 7, 9, 10 and 11 thereto.

San Francisco Territory means all points and places in the area described in Appendix B.

Los Angeles Territory means all points and places in the area described in Appendix C.

Issued by California Public Utilities Commission.

Decision No. 70470, Applications Nos. 36216 and 46993.

APPENDIX B TO DECISION NO. 70470

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; southwestwesterly 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; southwestwesterly 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.

APPENDIX C TO DECISION NO. 70470

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate, thence northerly along Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along Foothill Boulevard from the intersection of Foothill Boulevard and the Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.