

Decision No. 71566**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of HUMBOLDT-PACIFIC TRANSPORT,
INC., a corporation of Rio Dell,
for a permit to operate as a
Highway Contract Carrier (Appl.
No. 12-3476-H), for the transpor-
tation of general commodities,
50-mi radius of Rio Dell, (File
No. T-83,407).

Application No. 48294
(Filed January 10, 1966)

Robert C. Dunn, for applicant.

Armand Karp, for Callison Truck Lines, Inc.,
interested party.

Frank J. O'Leary, for the Commission staff.

O P I N I O N

By this application, Humboldt-Pacific Transport, Inc., seeks a permit to operate as a highway contract carrier in the transportation of general commodities, subject to the usual exceptions, between points located within a radius of 50 miles of Rio Dell, Humboldt County.

Public hearing was held before Examiner Bishop at San Francisco on April 19, 1966. Applicant's president testified in support of the application. A representative of the License and Compliance Branch of the Commission's Transportation Division staff assisted in the development of the record.

The following facts were developed. Applicant is engaged in the business of buying, or otherwise acquiring as its own property, junked automobiles, trucking them from various points in northwestern California to its facilities at Rio Dell, baling the automobiles into bales of scrap, then transporting the bales to the San Francisco Bay area where they are sold as steel scrap to dealers in that commodity. Applicant has installed on its premises a large

automobile baler for this operation.

It is applicant's plan to secure, as a for-hire carrier, return loads of general commodities for its vehicles as they return to Rio Dell from the Bay Area. The contract carrier permit herein sought is for the purpose of enabling applicant to effectuate its plan. Such backhaul shipments would necessarily originate and terminate at points within the proposed 50-mile radius of Rio Dell.

Applicant possesses seven tractors and five semitrailers. At the time of hearing, a loan of \$18,000 against this equipment was outstanding at the bank. Applicant owns no land or buildings, but has shop equipment valued at \$500 and materials and supplies in the same amount. Cash on hand and in bank at the time of filing amounted to \$2,000.

In the financial statement incorporated in the application the value of trucks and trailers was shown as \$57,000. At the hearing the witness made conflicting statements regarding the value of said equipment. At one time he testified that the value was the same (\$18,000) "that was borrowed on it, maybe a little less" (Tr. 20). Later he testified that the figure was his own appraised value of the equipment, and that, in his opinion, that is what it was worth (Tr. 21, 22). No appraisal, he stated, was made by an outside firm.

It appears that the figure of \$18,000 is the correct measure of the value of applicant's vehicles for the purposes of this proceeding. With this revision, the total of the assets column of the aforesaid financial statement becomes \$21,000 (in lieu of \$60,000).

The outstanding liabilities of applicant, as shown in the statement, totaled \$20,400. However, the record shows that an additional loan of \$10,000 was subsequently obtained by applicant in order to pay off a federal tax lien outstanding against North Coast Transport, Inc., an affiliated company. This brings the total liabilities to \$30,400, as compared with total assets of \$21,000. It is

natural to assume that, since the filing of the application and the negotiation of the \$10,000 loan, some payments have been made by applicant on its outstanding obligations, presumably from its non-utility income. Likewise the total of the assets may well have changed during the same period.

Applicant's articles of incorporation were filed with the Secretary of State on December 20, 1965. The witness stated that, as yet, no stock certificates have been issued by applicant. The State Division of Corporations, he said, has withheld authorization of the certificates until applicant shall have secured operating authority from this Commission. Par value of the total issue, of which the company's president will acquire 43%, will be \$60,000.

North Coast Transport, Inc. (North Coast) is a radial highway common carrier, engaged in the hauling of wood chips under contract with Georgia Pacific Corporation. It possesses three tractors and an undisclosed number of so-called "bins" in which the chips are transported. The president of applicant is also the president of North Coast and his brother, besides being an officer of applicant, is an officer of North Coast. Ownership of the stock of the latter company is divided equally between the two brothers.

The record further discloses that the two companies in question use the same terminal facilities at Rio Dell. The president is operating manager of both companies, while his brother is in charge of maintenance for the two corporations. The vehicles now owned by applicant were formerly registered to North Coast. It appears that generally, the equipment of the two companies is not intermingled.^{1/}

^{1/} Applicant's witness recalled one instance in which one of applicant's tractors was loaned, free of charge, to North Coast for temporary use while one of the vehicles of the latter company was being repaired.

Although the application states that applicant has contracts with Georgia-Pacific Corp. and with Eel River Sawmills the witness testified that such contracts were, at the time of filing of the application, only being negotiated. He further stated that when the hauling contracts for Georgia-Pacific, now held by North Coast, expire, applicant may submit bids competitively for the same hauls.

We take official notice of Case No. 8382, an investigation on the Commission's own motion into the operations of North Coast, and of Decision No. 71562, dated NOV. 22 1966, in that proceeding, in which North Coast has been found guilty of, and subject to a fine for, violations of the Commission's minimum rate orders and has been ordered to collect undercharges.^{2/}

The position of the staff is that applicant is the alter ego of North Coast and that if the permit sought herein is granted, North Coast could go out of business and its operations be taken over by applicant. The staff suggested that, if applicant is found to be financially responsible, the issuance of the sought permit be deferred until Decision No. 71562, above, is complied with, or that applicant be made liable for compliance with said decision, should North Coast go out of business prior to compliance therewith.

We find that Humboldt-Pacific Transport, Inc. has not been shown to possess the financial responsibility to perform the proposed operations required under the provisions of Section 3572 of the Public Utilities Code.

^{2/} We also take official notice of Decisions Nos. 55980, 60492 (Unreported) and 64093 (60 CPUC 98), dated December 16, 1957, August 2, 1960 and August 7, 1962, respectively. These decisions involved earlier findings of minimum rate violations by Ray Summers and Earl Summers, doing business as North Coast Transport and by North Coast Transport, Inc., successor to said partnership.

The evidence of an alter ego relationship between applicant and North Coast is substantial. However, no specific finding on that point will be made, in view of the finding hereinabove set forth.

We conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 48294 is denied.

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

Dated at San Francisco, California, this 27th day of NOVEMBER, 1966.

[Signature]
 President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.