

ORIGINALDecision No. 72803

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

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

Marquam C. George, for applicant.
Handler, Baker & Greene, by Ray Greene, for Doudell Trucking Co.; 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; protestants.

OPINION ON REHEARING

Petition for rehearing by protestants of Decision No. 70470 dated March 22, 1966, in Applications Nos. 46993 and 36216, was granted by order dated May 3, 1966.

Applicant was granted a highway common carrier certificate by Decision No. 58659 dated June 23, 1959, in Application No. 36216,

as amended by Decision No. 59488, dated January 12, 1960, authorizing it to transport stoves, boilers, pipe (other than clay, concrete or earthen), iron, steel, rubber and scrap metal between the San Francisco and Los Angeles territories.^{1/} By Application No. 46993, filed September 22, 1964, applicant sought authority to expand its certificated operations to include the transportation of aluminum, brass, bronze, copper, paint and related commodities, machinery, caps, boxes, petroleum and oils. Decision No. 68996 dated May 4, 1965, in Applications Nos. 46993 and 36216, revoked applicant's certificated authority and denied Application No. 46993. Decision No. 70470 vacated and set aside Decision No. 68996 which had been suspended prior to its effective date, granted an in lieu certificate to applicant which restated the certificate heretofore issued to it and added nonferrous metals and machinery to the list of commodities it was authorized to transport and in all other respects denied Application No. 46993.

Rehearing was held before Examiner Mooney at San Francisco on September 26, 1966. Oral argument was presented by protestants and applicant. No additional evidence was offered. The matter was submitted on said date.

Protestants asserted that the record does not support the enlargement of applicant's certificate. They pointed out that only two shipper witnesses have appeared in this proceeding on behalf of applicant; that one was a shipper of nonferrous metals, primarily aluminum, and that the other was a shipper of machinery. They argued that the extended authority was based entirely on the testimony of the two witnesses which was vague and inconclusive and not a sufficient basis to establish public convenience and necessity.

^{1/} Senna Trucking Co., Inc., is the successor to Manuel Senna, doing business as Senna Trucking Co.

Applicant contended that the record fully supports Decision No. 70470 and the additions to its certificate granted by said decision. It asserted that in the event the Commission were to take a contrary view regarding the additional commodities, it desired to retain its original certificate.

Upon review of the entire record herein, the Commission finds that:

1. Applicant was granted a certificate of public convenience and necessity by Decision No. 58659 dated June 23, 1959, in Application No. 36216, as amended by Decision No. 59488 dated January 12, 1960, authorizing it to transport stoves, boilers, pipe (other than clay, concrete or earthen), iron, steel, rubber and scrap metal between the San Francisco and Los Angeles territories.

2. The certificate referred to in Finding 1 was revoked by Decision No. 68996 dated May 4, 1965, in Applications Nos. 46993 and 36216. Said decision was suspended and never became effective. It was vacated and set aside by Decision No. 70470 dated March 22, 1966, in the same proceeding.

3. Applicant was granted an in lieu certificate by said Decision No. 70470. The in lieu certificate restated the operating authority referred to in Finding 1 and added nonferrous metals and machinery to the list of commodities applicant is authorized to transport.

4. Said Decision No. 70470 was stayed by Order Granting Rehearing dated May 3, 1966.

5. Two shipper-witnesses appeared on behalf of applicant. One was a shipper of nonferrous metals, and the other was a shipper of machinery. Both indicated that applicant provides a specialized, expedited service. Both use other carriers in addition to applicant.

6. Many of the protesting carriers are authorized to transport nonferrous metals and machinery between the San Francisco and Los Angeles areas, as well as the additional commodities sought by applicant in Application No. 46993.

7. Applicant has failed to establish on this record that public convenience and necessity require that applicant render the service proposed in Application No. 46993 or any part thereof.

8. It has not been established on this record that the certificate of public convenience and necessity referred to in Finding 1 should be revoked.

The Commission concludes that:

1. Decision No. 70470 dated March 22, 1966, in Applications Nos. 46993 and 36216, should be vacated and set aside.

2. Application No. 46993 should be denied in its entirety.

3. The certificate of public convenience and necessity granted to applicant by Decision No. 58659 dated June 23, 1959, in Application No. 36216, as amended by Decision No. 59488 dated January 12, 1960, should remain in full force and effect.

It is noted that Decision No. 68996, which was vacated and set aside by Decision No. 70470, revoked applicant's original certificate referred to in Conclusion 3. In order to avoid any confusion as to whether Decision No. 68996 is reinstated by the vacating of Decision No. 70470, the order which follows will provide that Decision No. 68996 is also vacated and set aside.

O R D E R

IT IS ORDERED that:

1. Decision No. 70470 dated March 22, 1966, in Applications Nos. 46993 and 36216, is hereby vacated and set aside.

2. Decision No. 68996 dated May 4, 1965, in Applications Nos. 46993 and 36216, which was heretofore rescinded by Decision No. 70470, is hereby vacated and set aside.

3. Application No. 46993 is hereby denied in its entirety.

4. The certificate of public convenience and necessity granted to applicant by Decision No. 58659 dated June 23, 1959, in Application No. 36216, as amended by Decision No. 59488 dated January 12, 1960, shall remain in full force and effect.

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

Dated at San Francisco, California, this 25th day of JULY, 1967.

[Signature]
President

[Signature]
[Signature]
[Signature]
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.