

ORIGINALDecision No. 73810

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SOPHIE W. JAKOBSEN, doing bus-
iness as Trans-Bay Motor Express
Co., for an order amending a
weight restriction in her certif-
icate of public convenience and
necessity as a highway common
carrier.

Application No. 48056

Scott Elder, for applicant.
Graham & James, by Boris H. Lakusta, for
Boulevard Transportation Company,
California Cartage Company, California
Motor Transport Co., T.I.M.E. Motor
Freight, Delta Lines, Inc., Di Salvo
Trucking Company, Ringsby-Pacific Ltd.,
Garden City Transportation Company,
Walkup's Merchants Express, Nielsen
Freight Lines, Oregon-Nevada-California
Fast Freight and Southern California
Freight Lines, Pacific Intermountain
Express, Pacific Motor Trucking Company,
Shippers Express, Sterling Transit Co.,
Inc., Warren Transportation Company,
and Willig Freight Lines, protestants.

OPINION ON REHEARING

On July 11, 1967, the Commission issued Decision No. 72722 which denied the instant application. A petition for rehearing was filed by applicant on July 31, 1967. Rehearing was granted on September 6, 1967 and was held at San Francisco on November 13, 1967 before Examiner O'Leary.

The president and sole stockholder of Trans-Bay Motor Express, Inc., the substituted applicant in this proceeding, testified that the only reason applicant is seeking the amendment to its certificate is so that it will be able to accommodate present shippers who have requested the transportation of barrels, drums

and packages strapped to pallets which weigh in excess of 200 pounds. The witness also testified that applicant does not intend to actively solicit this type of traffic. The witness also testified that the testimony of applicant's general manager to the contrary at the original hearing was erroneous, and that if the sought amendment to the certificate is granted it would not alter the present operation nor would it require the addition of new or different equipment.

During the course of the rehearing, counsel for the protestant carriers indicated the protest might be withdrawn if applicant limited its request to the transportation of items in excess of 200 pounds only when tendered with other packages weighing less than 200 pounds. As a result applicant filed an amendment to the application which set forth the following modified provision:

"17. Parcels or packages, except barrels, drums and parcels or packages strapped or otherwise secured to pallets or skids when tendered contemporaneously with other freight, which weigh in excess of 200 pounds, nor 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."

By letter dated January 2, 1968, counsel for protestants advised that the amendment was not sufficiently in keeping with the representations which were made by applicant at the hearing to permit protestants to withdraw.

After rehearing and reconsideration of this matter the Commission finds that:

1. Shippers occasionally have barrels, drums or packages strapped to pallets which weigh over 200 pounds that they desire to combine with shipments of parcels weighing less than 200 pounds.

2. Public convenience and necessity require applicant's certificate be amended so that such shipments may be handled.

The Commission concludes the application should be granted to the extent set forth in the ensuing order.

Trans-Bay Motor Express, 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 the certificate of public convenience and necessity granted to Sophie W. Jakobsen by Decision No. 60415, in Application No. 41910 and transferred to Trans-Bay Motor Express, Inc., by Decision No. 72335, in Application No. 49234, is hereby amended by incorporating in Appendix A of Decision No. 60415 First Revised Page 4 and Original Page 5, attached hereto in revision of Original Page 4.

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

Dated at San Francisco, California, this 5th day of MARCH, 1968.

President

William J. ...

August

William J. ...

Paul P. ...

Commissioners

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

Appendix A TRANS-BAY MOTOR EXPRESS, INC.
(Dec. 60415) (a corporation)

First Revised Page 4
Cancels
Original Page 4

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.

Issued by California Public Utilities Commission.

Decision No. 73810, Application No. 48056.

16. Merchandise after sale by retail department or specialty stores to their customers.
17. Parcels or packages which weigh in excess of 200 pounds, except that barrels, drums and parcels or packages strapped or otherwise secured to pallets or skids which weigh in excess of 200 pounds may be transported when tendered as part of a shipment which also includes parcels or packages which do not weigh in excess of 200 pounds.
18. Shipments, including split pickup and split delivery shipments, to which is applicable a rate subject to a minimum weight exceeding 20,000 pounds.
19. Portland or similar cements in bulk or packages loaded substantially to capacity in any motor vehicle either alone or in combination with lime or powdered limestone.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 73810, Application No. 48056.