

ORIGINAL

Decision No. 76452

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GOLDEN STATE TRAILER TRANSPORT, INC.,
a California corporation, for a
Certificate of Public Convenience
and Necessity to operate as a Highway
Common Carrier for the transportation
of property in intrastate commerce, to,
from and between points and places in
the State of California.

Application No. 51206
(Filed June 27, 1969)

Donald Murchison, for applicant
Donald D. Evans, for AAA Mobile
Home Transport Service, and
Donald B. Shields, for Highway
Carriers Association, interested
parties.
H. L. Farmer, for the Commission
staff.

O P I N I O N

This application was heard before Examiner Rogers at Los Angeles on August 13 and 14, 1969. On the latter date applicant was given ten days in which to file a statement. The statement was filed and the matter was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There were no protests.

Applicant is a radial highway common carrier (permit no. 19-57589), engaged in the transportation of camper bodies, boats, house trailers and houses or buildings between all points in California. It requests authority to conduct operations as a

highway common carrier for the transportation of trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper, and furniture and other personal effects of the trailer coach owner or camper owner included with the shipment of the trailer coach or camper, and portable houses and buildings, new or used, set-up, mounted on wheels, to, from and between all points and places located within the State of California, save and except such authority shall exclude operations wholly within incorporated cities within said state, the same to be performed under applicant's radial highway common carrier authority.

Applicant is a California corporation formed on approximately May 5, 1965. Harold L. Perry, the president and manager, is now the owner of all the issued stock. Mrs. Perry (Dorothy) is the secretary-treasurer and office manager; Harold L. Perry, Jr. (son) is the vice president; and Patricia Monge (daughter) is the assistant office manager. Prior to the incorporation, Harold L. Perry as an individual, operated the business for approximately six years.

In addition to the family, applicant has two office employees. It has 21 truck drivers, 13 of whom are not employees of the applicant but are independent contractors. The other eight are employees of the applicant.

Applicant has an office and terminal at 11048 Garvey Street, El Monte, California. It has a storage lot for homes and trailers in transit at Garvey Street and Mountain Avenue in El Monte, eight or nine blocks from the business office. It proposes to establish additional terminals at other places in the State, for example, Woodland, San Jose and Riverside.

Applicant proposes to provide the service on-call, Mondays through Fridays, excluding weekends and holidays. The Division of Highways will not permit the towing of mobile homes over eight feet wide over the highways on the excluded days. Such transportation is only permitted during daylight hours.

Rates, rules and regulations will be those prescribed as minimum in the Commission's Minimum Rate Tariff No. ^{1/}13 and other Commission tariffs naming minimum rates, rules and regulations applicable to the transportation of commodities proposed to be transported between points in the state. It has and will maintain in effect all insurance and bonds required by the Commission.

As of July 31, 1969, applicant's current assets totaled \$36,732, and its current liabilities totaled \$5,888 (Exhibit No. 3). For the month of July, 1969, its gross revenues from all sources amounted to \$19,204, and its total expenses, including officers' salaries, amounted to \$17,190 (Exhibit No. 4).

Applicant has available ^{2/}for use 21 one and one-half ton, two ton and two and one-half ton tractors^{3/}. It owns two of these. The other 19 are owned by the drivers. All tractors are specially built short wheelbase vehicles^{4/}, gasoline or diesel powered, and

1/ A comprehensive statement of the types of trailers and items to be hauled by applicant is contained in this Commission's Decision No. 72418, dated May 16, 1967, and need not be set forth herein. The applicant and AAA Mobile Home Transport Service were parties to that proceeding.

2/ Applicant employs eight drivers including six who own their tractors. There are thirteen driver-owners who haul shipments and turn a portion of the resulting revenues over to the applicant. In some instances they have permits from the Commission. In others they have no authority from the Commission. These latter owners will be required either to become employees of the applicant and lease their equipment to it, or secure highway common carrier certificates in order to perform the highway common carrier operations (48 Cal. P.U.C. 576 at 582).

3/ Exhibit No. 5

4/ Exhibit No. 6

are ordinarily used to tow trailers or mobile homes on the wheels attached to such item. Occasionally applicant is required to move old mobile homes or trailers without brakes, or small buildings. This work is performed by the use of low-bed trailers pulled by the tractors.^{5/} Applicant owns two of such trailers.

Applicant divides his services into primary and secondary moves. Primary moves are those in which new trailers or mobile homes are delivered from the manufacturer to a dealer or from a dealer to an individual. Secondary moves are those in which trailers or mobile homes are moved from one trailer park to another. At present, about 15 percent of applicant's business consists of secondary moves.

Applicant serves 60 to 65 dealers in, and about 15 or 20 manufacturers of, trailers or mobile homes. The manufacturers served are mostly located in Los Angeles, Orange, San Bernardino and Riverside Counties, with some located in such places as Lindsay, Woodland, San Jose and Sacramento. The dealers are located throughout the state.

Public Witnesses

Applicant called representatives or owners of four mobile home manufacturers and two used mobile home dealers as witnesses. Some use the applicant on all occasions where the consignee does not specify a different carrier. Some use the applicant and other carriers. Each wants the applicant's services available and will continue to use its services if it secures a certificate and is

^{5/} Exhibit No. 7.

permitted to continue its operations. The manufacturers are located in the City of Industry, the City of Colton, the City of Long Beach and the City of Riverside^{6/}. The dealers are located in the City of El Monte and the City of Escondido. Collectively the manufacturers ship to all major communities or cities in California between the Oregon border, the Mexican border and the Arizona-Nevada borders. The dealers are located in the Cities of El Monte and Long Beach and collectively ship to Blythe, Bishop, Escondido, El Cajon, Lindsay, Monterey, Riverside, San Diego, Winterhaven, and Sunnymead. The frequency of shipments varies but one manufacturer may ship as frequently as daily for one week to a given point.

In addition to the witnesses who testified, the parties stipulated that applicant had available eight manufacturers located in Gardena (2), Riverside, Ontario (2), Compton and Hemet or Lindsay, and nine dealers located in El Monte (2), El Cajon, Chula Vista (2), Gardena, South San Francisco, and San Jose or Mountain View who would testify to the same effect as the witnesses who were called.

^{6/} Many of the shipments by the manufacturers are destined to State-line on the California-Nevada border; Blythe or Needles on the California-Arizona border, or Hornbrook on the California-Oregon border. The record shows very clearly that as to these shipments, although they are billed to said points in California, the ultimate destination in each instance is a point in Nevada, Arizona or Oregon. These are clearly interstate shipments and not subject to the jurisdiction of this Commission (Baltimore and Ohio Southwestern Railroad Company v. W. H. Settle 67 Law Ed. 189 at 192 (1922)). In addition, many shipments are made from points in Southern California to points on U.S. Highway 395 north of Lake Tahoe - using U.S. Highway 395 through Nevada. These shipments are also interstate in character and not subject to the jurisdiction of this Commission (Interstate Commerce Act, Part II, Section 303(a)(10)).

The applicant urges that the radial highway common carrier permit be continued in effect in order to permit intra-city operations. Services which are performed within a city by a carrier in conjunction with its highway common carrier services are highway common carrier services. As highway common carrier services, said intra-city services are covered by the provisions of the Public Utilities Code applicable to the highway common carriers. Any items applicant regularly carries between fixed termini or over regular routes must be carried under its certificated authority and a tariff must be filed for such transportation.

Findings

The Commission finds that:

1. Applicant is a California corporation presently transporting as a radial highway common carrier between all points and places in California, trailer coaches and campers including integral parts and contents, and furniture and other personal effects of the trailer coach owner or camper owners included with the shipment of the trailer coach or camper, and portable houses new or used, set-up, mounted on wheels. In addition it is transporting boats. The said services are being performed pursuant to Radial Highway Common Carrier Permit No. 19-57589.

2. Applicant is experienced in such transportation. The corporation president has performed such services for approximately six years prior to incorporation, as an individual. The corporation was formed approximately one year prior to the hearing herein and the president is now the sole stockholder.

3. Applicant requests a certificate of public convenience and necessity as a highway common carrier for the transportation of all items it is presently permitted to carry as a radial highway common carrier, except boats, to, from and between all points and places in California, save and except such authority shall exclude operations wholly within incorporated cities within the state, the same to be performed under applicant's permitted authority.

4. Applicant has the experience, finances and equipment with which to render the requested authority.

5. There is no evidence to show that any services are performed between two points, both of which are within the limits of a single incorporated city.

6. Applicant renders frequent service between points in Los Angeles, Orange, Riverside and San Bernardino Counties on the one hand, and points and places between the Oregon border on the north and the Mexican border on the south on the other hand. Such service is frequent enough to require a highway common carrier certificate.

7. The remaining services performed by applicant are not with such frequency that a highway common carrier certificate is appropriate or required.

8. Applicant should be granted a certificate as a highway common carrier for the transportation of articles, as requested, between points in Los Angeles, Orange, Riverside and San Bernardino Counties on the one hand, and on the other hand all points and places in the State of California.

9. Public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as a highway common carrier as set forth in the ensuing order.

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

Golden State Trailer Transport, 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. 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. A certificate of public convenience and necessity is granted to Golden State Trailer Transport, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the commodities and between the points particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, 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-E.
- (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.

- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1969.

William J. Lyons Jr.
President
George A. ...
J. P. Vukasin Jr.
Yann L. Stungis
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A GOLDEN STATE TRAILER TRANSPORT, INC. Original Page 1

Golden State Trailer Transport, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper, and furniture and other personal effects of the trailer coach owner or camper owner included with the shipment of the trailer coach or camper and portable houses and buildings, new or used, set-up, mounted on wheels, from points within Los Angeles, Orange, Riverside and San Bernardino Counties to any and all points in the State of California.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 76452, Application No. 51206.