

ORIGINAL

Decision No. 79209

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BERKELEY TRANSFER & STORAGE CO., INC.,
a California corporation, for authority
to transfer operating rights to EUGENE
J. SEIB, an individual, doing business
as G. S. TRUCKING.

Application No. 52769
(Filed July 26, 1971)

O P I N I O N

Seller is a California corporation with principal offices and business located in Berkeley. It is a highway common carrier engaged in the transportation of new household goods and new office, store and institution furniture and fixtures within the San Francisco-East Bay Cartage Zone, by virtue of Decision No. 51459, dated May 10, 1955, in Application No. 36289, as amended by Decision No. 51504. The certificate is registered with the Interstate Commerce Commission, and an application to transfer will be filed with the Interstate Commerce Commission if a transfer of authority is authorized by this Commission.

Purchaser is an individual with his principal office and business located in San Francisco. He transports new household goods, new office and store fixtures within a 150-mile radius of San Francisco under the authority of a radial highway common carrier permit. He operates with a 1971 20-foot Chevrolet van and a 1965 Chevrolet pickup. His balance sheet for the year ending on December 31, 1970, indicates a gross income of \$53,400 and a net profit of \$15,483; liabilities total \$8,300 and assets \$14,967.

The purchase price of \$1,000 is due and payable on the date the transfer is authorized. No property or stock is being sold, only the operating right. Buyer proposes to adopt the rates and rules published in various Pacific Motor Tariff Bureau, Inc., publications.

The application requests relief from the provisions of Rule 21(f) of the Revised Rules of Procedure of the California Public Utilities Commission, which requires service upon all competitors. It is alleged that only an existing right is being transferred, that other carriers have shown no interest, and that a copy of the application has been mailed to the California Trucking Association in Burlingame.

After consideration the Commission finds that:

1. The proposed transfer will not be adverse to the public interest.

2. The parties should be granted relief from the provisions of Rule 21(f) of the Revised Rules of Practice and Procedure.

3. That this order should be made effective on the date issued as requested by applicants.

4. A public hearing is not necessary.

We conclude that the application should be granted and tariff publication should be on not less than ten days' notice as requested by applicants.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Berkeley Transfer & Storage Co., Inc., and the issuance of a certificate in appendix form to Eugene J. Seib.

Eugene J. Seib 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, these 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. Applicants are relieved from the requirements of Rule 21(f) of the Revised Rules of Practice and Procedure.

2. On or before December 1, 1971, Berkeley Transfer & Storage Co., Inc., may sell and transfer, and Eugene J. Seib, dba G. S. Trucking, may purchase and acquire, the operative rights and property referred to in the application.

3. Within thirty days after the consummation of the transfer herein authorized, purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

4. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

6. In the event the transfer authorized in paragraph 2 hereof is consummated, a certificate of public convenience and necessity is granted to Eugene J. Seib, an individual, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in paragraph 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 51459, as amended by Decision No. 51504, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4 hereof.

8. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he 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-F.

9. Applicant shall maintain his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

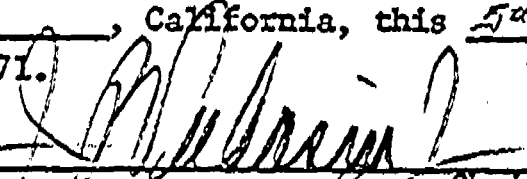
10. Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of

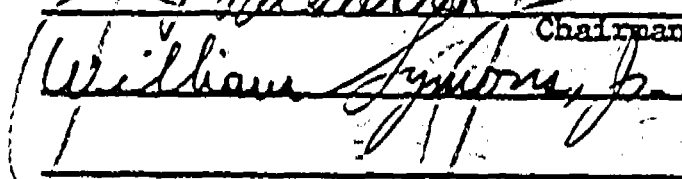
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collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.


The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 5th day of OCTOBER, 1971.



Chairman






Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Eugene J. Seib, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of new household goods and new office, store and institution furniture and fixtures between all points and places within the limits of the San Francisco-East Bay Cartage Zone embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to So. Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U.S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U.S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U.S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 163th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northwesterly of San Pablo Avenue (Highway U.S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U.S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly

along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U.S. 40; thence northerly along Highway U.S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

The foregoing description includes the following points or portions thereof:

| | | | |
|-----------------|------------------------------|--|-----------------|
| Alameda | El Cerrito | Oakland Pier | San Leandro |
| Alameda Pier | Elkton | Ocean View | San Lorenzo |
| Albany | Elmhurst | Piedmont | San Mateo |
| Baden | Emeryville | Point Castro | San Pablo |
| Bay Farm Island | Ferry Point | Point Fleming | South San Fran- |
| Bayshore | Fruitvale | Point Isabel | cisco |
| Berkeley | Government Island | Point Molate | Stege |
| Bernal | Hayward | Point Orient | Tanforan |
| Brisbane | Lawndale | Point Potrero | Treasure Island |
| Broadway | Lomita Park | Point Richmond | Union Park |
| Burlingame | Melrose | Point San Pablo | Visitacion |
| Camp Knight | Millbrae | Richmond | Westlake |
| Castro Valley | Mills Field | Russell City | Winehaven |
| Colma | Mt. Eden | San Bruno | Yerba Buena |
| Daly City | Oakland | San Francisco | Island |
| East Oakland | Oakland Municipal Airport | San Francisco Inter- national Airport | |

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 79209, Application No. 52769.