

ORIGINAL

Decision No. 79653

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Heavy Transport, Inc., a California corporation, for an extension of its certificates of Public Convenience and Necessity to operate as a highway common carrier via portions of U. S. Highway 101 and U. S. Highway 99 (Interstate 5), for operating convenience only, as routes traversed but not served.

Application No. 52975  
(Filed November 2, 1971)

O P I N I O N

Applicant is a corporation organized and existing under and by virtue of the laws of the State of California.

Applicant is presently operating in intrastate and interstate and foreign commerce as a highway common carrier in the transportation of machinery used in the petroleum industry; machinery and equipment of unusual size or weight; building, grading, electrical, mining and water well drilling equipment; fabricated structures, tanks and hangers; construction, mining and logging machinery in shipments over 5,000 pounds; and commodities which require special handling because of size, weight or bulk, over most of the State of California, with certain restrictions and limitations. Applicant holds a radial highway common carrier permit and operates as a certificated highway common carrier under authority of Decision No. 52378, dated December 20, 1955, in Application No. 35946; transferred by Decision No. 67426, dated June 23, 1964, in Application No. 46630; also pursuant to Decision No. 62703, dated October 17, 1961, in Application No. 43427, as amended by Decision No. 62749, dated October 31, 1961, and transferred by Decision No. 77292, dated June 3, 1970, in Application No. 51812. Applicant operates in interstate and foreign commerce under Certificates of Registration issued by the Interstate Commerce Commission.

Applicant has applied for authority to traverse certain new routes for operating convenience only, and without providing service to any points thereon along said highways, between San Martin and King City, California, on U. S. Highway 101 and Madera and Merced, California, on U. S. Highway 99. There will be no extension of area or service and no change in the commodities to be hauled.

Applicant filed one copy of its amended application with the Interstate Commerce Commission under Section 206(a) of the Interstate Commerce Act. Notice of this application appeared in the Federal Register on November 24, 1971 and no protests have been received.

Applicant provides service on an "on call" basis at any hour of the day or night, seven days a week, including Saturdays, Sundays, and holidays. It is a party to all Western Motor Tariff Bureau, Inc. publications. It alleges it is now required to haul over circuitous routes to reach certain customers, thereby causing late deliveries, inconvenience and higher operating costs. Some of applicant's routes are closed in the winter, which imposes a further burden. Applicant advises that if it is authorized to use the additional routes, more direct service will be provided at less expense, to benefit all of applicant's shippers.

Upon consideration of the evidence the Commission finds as follows:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

2. Public convenience and necessity require that applicant's operations as proposed herein in intrastate, interstate and foreign commerce be granted and that an in lieu certificate be issued as specified in the order which follows.

3. Public hearing is not necessary.

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

Heavy 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 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:

1. A certificate of public convenience and necessity is granted to Heavy Transport, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A and B 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-Series.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend its tariffs on file in the Commission's office to reflect the authority granted herein.

- (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.

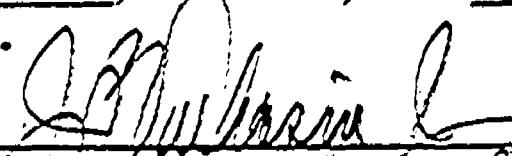


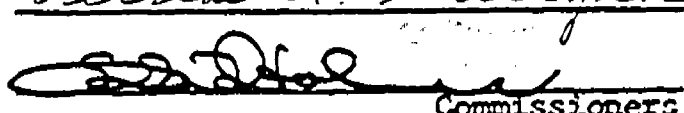
3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of commodities heretofore granted to or acquired by

A. 52975 vo

Heavy Transport, Inc., and presently possessed by it, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 1st day of FEBRUARY, 1972.

  
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Chairman  
  
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Commissioners

Heavy Transport, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

- A. Construction, mining and logging machinery, equipment, materials and supplies restricted to shipments weighing 5,000 pounds or more.
- B. Commodities which by reason of size, bulk or weight require special equipment or handling, and materials, parts and supplies that are appurtenant to or a necessary part of such commodities.

between the following points, subject to the restrictions hereinafter set forth:

1. All points and places in or within 25 miles of the boundary of the San Francisco Territory, as described in Appendix B attached hereto.
2. All points and places on or within 25 miles of the following highways:
  - a. U. S. Highway 40 between Richmond and the California-Nevada state line, inclusive.
  - b. U. S. Highway 50 between Hayward and the California-Nevada state line, inclusive.
  - c. U. S. Highways 99, 99-W and 99-E between Red Bluff and Merced, inclusive.
  - d. U. S. Highway 40-Alternate between U. S. Highway 40 near Davis and the California-Nevada state line near Peavine, inclusive.
  - e. State Highway 36 between Red Bluff and Johnstonville, inclusive.
  - f. U. S. Highway 395 between Johnstonville and the California-Nevada state line near Peavine, inclusive.
  - g. U. S. Highway 395 between the California-Nevada state line near Topaz Lake and Lee Vining, inclusive.

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Decision No. 79653, Application No. 52975.

- h. State Highway 32 between Chico and State Highway 36, inclusive.
- i. State Highway 39 between State Highway 36 and U. S. Highway 395 near Topaz Lake, inclusive.
- j. Unnumbered highway between U. S. Highway 40-Alternate and Quincy, via Honcut, La Porte and Nelson Point, inclusive.
- k. State Highway 49 between Sattley and State Highway 120 at Yosemite Junction, inclusive.
- l. State Highway 20 between Williams and U. S. Highway 40 near Cisco, inclusive.
- m. State Highway 24 between Oakland and Sacramento, inclusive.
- n. State Highway 4 between U. S. Highway 40, near Pinole, and State Highway 89, near Markleyville, inclusive.
- o. State Highway 120 between U. S. Highway 50, near Lathrop, and Lee Vining, inclusive.
- p. State Highway 103 between Sonora and U. S. Highway 395, near Fales Hot Springs, inclusive.

Through routes and rates may be established between any and all points and places specified in sub-paragraphs 1 through 2.p. above. Applicant may use any and all available alternate routes for operating convenience only.

- C. Machinery, equipment, materials and supplies incidental to or used in the construction, exploration, development, operation, refining, production and maintenance of facilities for the discovery, development, production, or refining of natural gas, petroleum and petroleum products.
- D. Machinery and equipment of unusual size or weight.
- E. Property or commodities of unusual size and weight requiring use of special equipment.

Issued by California Public Utilities Commission.

Decision No. 79653, Application No. 52975.

- F. Building contractors' equipment.
- G. Grading and paving equipment.
- H. Electrical transmission equipment.
- I. Water well drilling equipment.
- J. Mining machinery and equipment.
- K. Fabricated structures, tanks and hangars.
- L. Such materials and supplies as are appurtenant to or a necessary part of the machinery, equipment and property herein authorized to be transported in paragraphs D to K, inclusive, but not building or construction materials and supplies generally used in the various building and construction businesses.

from, to and between all points on or within fifty road miles laterally of the following routes:

U. S. Highway 101, 101 By-Pass and 101 Alternate, between the Mexican border and King City.

U. S. Highway 99 between the Mexican border and Madera.

U. S. Highway 6 between Los Angeles and Benton Station.

U. S. Highway 395 between San Bernardino and Inyokern.

State Highway 127 between Baker and Nevada state line.

U. S. Highway 466 between Barstow and Nevada state line.

U. S. Highway 66 between Los Angeles and Needles.

U. S. Highway 70 between Los Angeles and Blythe.

U. S. Highway 80 between San Diego and Winterhaven.

Issued by California Public Utilities Commission.

Decision No. 79653, Application No. 52975.



Applicant may traverse those portions of U. S. Highway 101 and U. S. Highway 99 for operating convenience only, and without service to any points thereon along said highways, between San Martin and King City on U. S. Highway 101 and Madera and Merced on U. S. Highway 99.

The authority set forth in Paragraphs A and B are subject to the following restrictions:

1. It shall not transport shipments to, from or between any point in Sonoma County.
2. It shall not transport shipments of less than 10,000 pounds from, to or between points on the following highways:
  - a. U. S. Highway 50 between Tahoe Valley and the California-Nevada state line.
  - b. State Highway 89 between Truckee and Tahoe Valley.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 79653, Application No. 52975.

SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simia to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwestwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

(END OF APPENDIX B)

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Decision No. 79653, Application No. 52975.