

ORIGINAL

Decision No. 80741

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SHIMA TRANSFER CO., a corporation,
for a certificate of public convenience
and necessity authorizing the transpor-
tation of general commodities between
points within the San Francisco
Territory.

Application No. 53463
(Filed July 18, 1972)

O P I N I O N

Shima Transfer Co., a California corporation, seeks a certificate of public convenience and necessity as a highway common carrier to operate between points and over routes within the San Francisco Territory, carrying general commodities with the usual exceptions.

Applicant is presently conducting operations as a for-hire motor carrier pursuant to various permitted authorities issued to it by this Commission in file No. T-85,747. The permitted authorities which applicant presently holds and pursuant to which it presently conducts operations as a for-hire motor carrier are a radial highway common carrier permit, a highway contract carrier permit, and a household goods carrier permit. Pursuant to said authorities applicant is presently operating as a for-hire motor carrier primarily between points and places located in the San Francisco Territory as said territory is described by this Commission.

Applicant also operates as a highway common carrier for the transportation of general commodities pursuant to a certificate granted by Decision No. 75384, and pursuant to a Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC 99463 (Sub No. 1), such operations being co-extensive in intrastate, interstate and foreign commerce. These certificates authorize operations between points in the San Francisco East Bay Cartage Zone.

The proposed transportation will be daily, Monday through Friday. Time in transit for this service will be both the same day and over night, depending upon the time of day requests for service are received. The rates to be assessed will be on the same scale as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs. Tariffs containing such rates and related rules and regulations will be filed upon receipt of the certificate sought herein.

Applicant proposes to perform service in intrastate, interstate and foreign commerce, wholly within the State of California, and, therefore, requests that this Commission specifically find that public convenience and necessity require such service.

Applicant alleges that it has the requisite financial ability to perform the proposed service and to acquire additional equipment if necessary. Applicant alleges that it already possesses a substantial fleet. Details of the financial allegations are set forth in exhibits which show current assets in the sum of \$131,970.48, total assets of \$354,724.18, liabilities of \$82,650.68, reserve for depreciation of \$123,630.97, common stock at \$50,000 and earned surplus of \$89,442.53. The income statement shows profit in the sum of \$63,345.63 for the year to date. Equipment includes 7 tractors, 6 van trucks, 4 semi-trailers, 4 trailers and 4 dollies.

Applicant alleges that it has been conducting operations as a for-hire motor carrier to and between points primarily within the San Francisco Territory which it is presently authorized to serve as a permitted carrier for a substantial period of time. Since first commencing operations it has substantially increased its fleet of operating equipment and the scope of its operations has increased to the extent that it allegedly serves a large number of shippers on virtually a day-to-day basis between fixed termini and over regular routes to and between all points in the San Francisco Territory.

The expansion of applicant's operation is assertedly attributable to the large scale population influx in the San Francisco Territory area and it is expected that such expansion will continue to increase due to the contemplated population increase envisioned in this area. As a result of this increased population and the continued increase in demand for applicant's services, applicant allegedly finds itself in the position of having to apply for certificated authority to continue and perpetuate its operations which it has heretofore conducted on a permitted basis within the San Francisco Territory.

The application was served on major carriers operating in the San Francisco Territory and on California Trucking Association. The only protest received was withdrawn. Notice of the application was duly published in the Federal Register.

No public hearing appears necessary.

We find that:

1. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein.

2. Appropriate notice and opportunity has been afforded to interested parties to appear and be heard, and that there are no protests presently on file.

We conclude that the certificate as prayed for should be granted.

Shima Transfer Co. 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 HEREBY ORDERED that:

1. A certificate of public convenience and necessity is granted to Shima Transfer Co., a corporation, authorizing it 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.

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 with the Commission 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-Series.
- 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 the certificate of public convenience and necessity granted by Decision No. 75384, dated March 4, 1969, which certificate is 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 21st day of NOVEMBER, 1972.

I dissent


Commissioner


President



Commissioners

Shima Transfer Co., 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 general commodities as follows:

- A. BETWEEN all points and places in the San Francisco Territory as described in Note A.
- B. In providing the service authorized herein, applicant may use any and all streets, roads, highways and bridges.

Applicant shall not transport any shipments of:

- 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
- 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
- 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.

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4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Trailer coaches or campers.

Note A

SAN FRANCISCO TERRITORY

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 Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 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 two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation

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thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along 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; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including 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 shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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