

ORIGINAL

Decision No. 81106

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAGE TRANSPORTATION INCORPORATED,)
a California corporation, for a)
certificate of public convenience)
and necessity to extend highway)
common carrier service.)

Application No. 53423
(Filed June 26, 1972)

E. H. Griffiths, for applicant.
Loughran, Berol and Hegarty, by Marshall G. Berol,
Attorney at Law, for Delta Lines, Inc., and
Michael A. Smith, Attorney at Law, for Pacific
Motor Trucking Company, protestants.

O P I N I O N

Applicant is presently engaged in the transportation of general commodities, with certain exceptions, between points and places within the San Francisco Territory, under a certificate of public convenience and necessity (not registered with the Interstate Commerce Commission) transferred to applicant by Decision No. 79072 dated August 24, 1971 in Application No. 52700. Applicant also holds radial highway common carrier and highway contract carrier permits. They were issued to Sage as an individual in February of 1961 and later transferred to the corporation.

Applicant applied on June 26, 1972 for an extension of authority to include most of the population centers between San Jose and Santa Rosa, Sacramento to Modesto, San Francisco to San Jose, and Oakland to Stockton. Applicant filed one copy of its application with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act. Applicant requests authority to serve the proposed area in interstate and foreign commerce as well as intrastate. Notice of this application appeared in the Federal Register on July 12, 1972. Protests were filed by Delta Lines, Inc. and Pacific Motor Trucking

Company. A hearing was scheduled and held in San Francisco on October 31 and November 1 and 2, 1972 before Examiner Fraser. After a conference on the third day of hearing, the parties provided a proposed certificate by stipulation, which was placed in the record as a late-filed exhibit (No. 12). Upon receipt of the stipulation the protests were withdrawn. The stipulation provided for the transportation of general commodities over U. S. Highway 101 between San Rafael and San Jose, with a ten mile lateral authority; Interstate Highway 80 between San Francisco and Crockett, inclusive, with a ten mile lateral; State Highway 17 between San Rafael and Los Gatos, with a five mile lateral; State Highway 4 between Pinole and junction with Interstate Highway 680, with a five mile lateral; State Highway 24 between Oakland and junction with State Highway 4; and Interstate Highway 580 between Oakland and Livermore, with service to the off-route point of Pleasanton. It provided for the usual restrictions and removed most of Solano County from applicant's proposed service area.

Applicant will provide a daily on-call service, from Monday through Friday, with the exception of holidays. Applicant proposes an intrastate, interstate, and foreign commerce service to be performed wholly within the State of California. Applicant will adopt the rates, rules, and regulations set forth in Minimum Rate Tariff 2 and other applicable Commission minimum rate tariffs. Applicant's operating equipment includes 5 van trucks, 1 flatbed, 5 tractors, 4 van semi-trailers, 2 flatbed semi-trailers, a dolly, and several forklifts. Applicant's balance sheet as of July 1, 1972 shows total assets of \$153,954.07, total current liabilities of \$12,613.74, and capital of \$107,544.54. Applicant's statement of earnings for the first six months of 1972 indicates a gross income of \$134,103.60, expenses of \$128,996.97, and a net income of \$5,106.63.

The president and sole stockholder of the applicant corporation testified as follows: He has 20 years' experience in the trucking business, operating initially as an individual, then, since 1967, as a corporation. Applicant operates from a 5,000-square foot terminal in South San Francisco which includes a repair facility and loading dock. Applicant employs 8 drivers, a dispatcher, and a clerical worker, along with a part-time accountant and the president, who functions as general manager. Applicant's present certificate was purchased in 1971 after a Commission representative warned that applicant was providing a scheduled service between certain points. The certificate was not adequate, but it was the only one that could be purchased. Applicant has applied herein for an expanded service area to eliminate split-delivery problems and to satisfy shipper demands for regular service out of the Bay Area.

Ten shippers testified for the applicant. They receive and ship auto parts, elevators and parts therefor, school, stadium, and auditorium equipment, rope, cordage, electrical supplies, staplers, pneumatic and power tools, fruits, canned food, bottles, caps, chemicals, and other items. Several receive supplies from foreign countries and seek applicant's service to transport their merchandise from the docks to a warehouse or consignee. All of those who testified have used applicant's transportation service for a number of years. They classified applicant's service as being very dependable and claim free. All will use the service throughout the expanded service area if the application is granted.

Findings

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

2. 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. The order which follows will provide for the granting of an in-lieu certificate of public convenience and necessity and the revocation of all existing authority.

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

Applicant 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 Sage Transportation Incorporated, 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 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 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-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 all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by applicant 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 Los Angeles, California, this 6th day of MARCH, 1973.

Victor L. Sturgeon
President
William J. Lyons

[Signature]
Commissioners

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

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

Sage Transportation Incorporated, 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:

- I. From, to and between all points and places located on and along the following routes:
 - A. U.S. Highway 101 between San Rafael and San Jose, inclusive, and within 10 miles laterally of said route;
 - B. State Highway 17 between San Rafael and Los Catos, inclusive, and points within 5 miles laterally of said route;
 - C. Interstate Highway 80 between San Francisco and Crockett, inclusive, and points within 10 miles laterally of said route;
 - D. State Highway 4 between Pinole and its junction with Interstate Highway 680, inclusive, and points within 5 miles laterally of said route;
 - E. State Highway 24 between Oakland and its junction with State Highway 4, inclusive;
 - F. Interstate Highway 580 between Oakland and Livermore, inclusive, with service to the off-route point of Pleasanton.

RESTRICTION: No shipments shall be transported to, from or between points in Solano County, except service is authorized to and from the City of Vallejo.

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In performing the service herein authorized, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Except that pursuant to the authority herein granted, carrier 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.
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. Logs.

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8. Fresh fruits and vegetables.
9. Hay, fodder and straw in machine-pressed bales.
10. New uncrated furniture.
11. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.

(END OF APPENDIX A)

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