

ORIGINAL

Decision No. 82135

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of JOHN V. TYLER and R. G. CARLSON,
a partnership, doing business as
TYLER BROS. DRAYAGE CO., for author-
ity to transfer operating rights to
BCT TRANSPORTATION CO., INC., a
California corporation.

Application No. 54357
(Filed October 1, 1973)

O P I N I O N

John V. Tyler and R. G. Carlson, doing business as Tyler Bros. Drayage Co., request authority to sell and transfer, and BCT Transportation Co., Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 60120 dated May 17, 1960 in Application No. 41741 and authorizes the transportation of general commodities between points in the San Francisco-East Bay Cartage Zone, between San Mateo and San Jose and intermediate points, and between Hayward and San Jose and intermediate points. The agreed consideration is \$15,000 payable as follows: \$1,000 in cash and the balance of \$14,000 in the form of a promissory note payable in monthly installments of \$250, with interest at the rate of 6 percent per annum.

Applicant purchaser is presently operating as a permitted carrier and as of September 15, 1973, indicated a net worth in the amount of \$6,301.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest; that the issuance of the proposed promissory note is for proper purposes; and that the

money, property, or labor to be provided or paid for by the issuance of the promissory note authorized by the decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by John V. Tyler and R. G. Carlson and the issuance of a certificate in appendix form to BCT Transportation Co., Inc. This certificate will be restated, but such restatement will not broaden the rights to be transferred.

The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

BCT Transportation Co., Inc. is 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. On or before July 1, 1974, John V. Tyler and R. G. Carlson may sell and transfer the operative rights referred to in the application to BCT Transportation Co., Inc.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. 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-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer the 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.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to BCT Transportation Co., 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 60120 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. After the effective date hereof, applicant purchaser may execute a promissory note in an amount not to exceed \$14,000 for the purposes specified in the application.

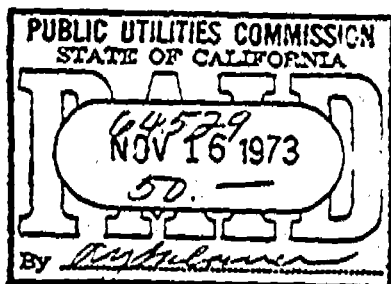
A. 54357 lmm

8. The issuer of the note authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$50. In other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of NOVEMBER, 1973.

Vernon L. Sturgeon
President
William L. Sturgeon
L.H. Sturgeon
Sturgeon
Sturgeon
Commissioners



BCT Transportation Co., Inc., 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 except trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper, from, to and between all points and places located in the following areas and along the following routes:

1. The San Francisco-East Bay Cartage Zone, as described in Note A.
2. Between San Mateo and San Jose and intermediate points on U.S. Highway 101 and State Highway 82, between Hayward and San Jose and intermediate points on State Highways 17 and 238, and between all points laterally within 5 miles of said highways.
3. 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.

Note A

SAN FRANCISCO-EAST BAY CARTAGE ZONE

The San Francisco-East Bay Cartage Zone includes the area 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 to South 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

Issued by California Public Utilities Commission.

Decision No. 82135, Application No. 54357.

Maddux Drive, thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway), thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road, thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 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 Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence 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 said County Line to its intersection with Arlington Avenue (Berkeley), thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County), thence westerly along County Road 20 to Broadway Avenue, thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) 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 shoreline of San Pablo Bay, thence southerly and westerly along the shoreline and

Issued by California Public Utilities Commission.

Decision No. 82135, Application No. 54357.

waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 82135, Application No. 54357.