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Decision No. 82199

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ACME DRAYAGE, a California Corpora-
tion for a Certificate of Public
Convenience and Necessity author-
izing the transportation of General
Commodities between points within
the San Francisco Territory.

Application No. 54031
(Filed May 14, 1973)

O P I N I O N

By its application filed May 14, 1973, Acme Drayage requests a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of general commodities, with certain exceptions, between points within the San Francisco Territory, as set forth in Exhibit A attached to the application. The applicant also requests the Commission to find that public convenience and necessity require transportation in intrastate, interstate, and foreign commerce, so as to permit applicant to apply for a Certificate of Registration from the Interstate Commerce Commission.

By letter dated October 3, 1973 from E. H. Griffiths to the Secretary of the Commission, which has been received in evidence as Exhibit No. 1, applicant advised the Commission that it additionally does not intend to engage in the transportation of the following commodities as described by the Commission:

Trailer coaches and campers.

Commodities requiring the use of special refrigeration or temperature control.

Explosives, dangerous articles, and other hazardous commodities.

Applicant holds the following permitted authority under File No. T-88,669:

Radial Highway Common Carrier Permit

General Commodities with the usual exceptions, within a 350-mile radius of South San Francisco, California.

Highway Contract Carrier Permit

General Commodities with the usual exceptions - statewide.

Dump Truck Carrier Permit

State of California.

George P. Tuttle is the President and owns the majority of the stock of applicant. Applicant is presently operating as a for-hire motor carrier in the transportation of general commodities in less than truckload lots principally between points and places within the San Francisco territory. Occasional shipments are transported to points outside this area.

Applicant is now operating a fleet of motor vehicle equipment which is especially designed and suited to the service proposed in the application. A schedule of the equipment is set forth in Exhibit C, attached to the application. Applicant is willing and able to acquire such additional equipment as may be necessary to conduct the proposed operations. Applicant's proposed service would be on a daily on-call basis, Mondays through Fridays, and would be performed in intrastate, interstate, and foreign commerce, wholly within the State of California.

Applicant's Balance Sheet as of June 30, 1972 and Income Statement for the Year Ending June 30, 1972 are attached to the application as Exhibit D.

Since the date of incorporation in 1968, applicant has expanded from four trucks to five trucks, seven tractors, eight trailers, three automobiles, five forklifts, and two pallet jacks.

Applicant's gross annual revenue has increased from \$138,176 in 1968 to \$309,275 in 1972. Applicant has acquired terminal facilities consisting of two buildings used for the general offices and private warehouse storage, located on a 27,000 square foot parcel. One of the buildings which is served by a spur track has three rail doors for unloading and eight spots at the dock for trucks.

Most of applicant's shippers have used the service for more than three years, and by reason of their increased sales have requested more and more service. Applicant now serves a large number of shippers on a daily basis between fixed points and over regular routes between points located within the San Francisco territory.

Copies of the application were served in accordance with the Commission's procedural rules. Notice of this application appeared in the Commission's Calendar of May 15, 1973 and in the Federal Register on June 27, 1973. No protests to the granting of the application have been submitted to the Commission.

Findings

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 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 this decision.
3. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.
4. A public hearing is not necessary.

Conclusion

The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description of the authority granted reflects the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

Acme Drayage 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. A certificate of public convenience and necessity is granted to Acme Drayage, a California 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.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

(a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with 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 of this order, applicant shall establish the authorized service 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 authorized service.
- (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.

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

Dated at San Francisco, California, this 4th day of DECEMBER, 1973.

I dissent:

William L. Sullivan, Commissioner

William L. Sullivan
President

William L. Sullivan
William L. Sullivan
William L. Sullivan

Commissioners

Acme Drayage, 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:

Between all points and places in the San Francisco Territory as described in Note A.

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.

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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 and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives or dangerous articles.
13. Fresh Fruits and vegetables.

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; south-

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erly 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 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; southwestly 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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