

ORIGINAL

Decision No. S2255

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HARRY LOUX doing business as
LOUX & SON DRAYAGE, for a certificate
of public convenience and necessity
authorizing transportation of general
commodities between points within the
San Francisco Territory and areas
adjacent thereto.

Application No. 54300
(Filed September 4, 1973)

O P I N I O N

Harry Loux, doing business as Loux & Son Drayage and presently providing service as a highway common carrier for the transportation of various specified commodities between all points and places on:

- (a) U. S. Highway 40 between San Francisco and San Pablo,
- (b) U. S. Highway 50 between San Francisco and Castro Valley,
- (c) U. S. Highway 40 between San Pablo and Oakland, and

(d) State Highway 17 between Oakland and San Leandro, requests authority to extend his certificated operations to include the transportation of general commodities, with certain exceptions, between all points and places within the San Francisco Territory, all points within ten miles of any point therein, and between all points on or within ten miles of the points on the following routes:

- (a) Interstate Highway 580, between Hayward and Livermore, inclusive;
- (b) Interstate Highway 680, between Mission San Jose and Vallejo, inclusive;
- (c) State Highway 24, between Oakland and Walnut Creek, inclusive;
- (d) Interstate Highway 80, between Richmond and Vallejo, inclusive; and

- (e) State Highway 4, between Pinole and Antioch, inclusive.

Applicant also proposes a corresponding service on shipments moving in interstate and foreign commerce. A certificate of service shows that copies of the application were served upon carriers with which the proposed service might compete as well as upon the California Trucking Association, and an appropriate notice was published in the Federal Register on September 19, 1973. No protest has been received.

Applicant proposes a daily service, Monday through Friday. The transit time would be same-day and overnight, depending upon the time of day requests for service are received. The proposed rates would be comparable to those contained in Minimum Rate Tariff 2.

Applicant owns and operates 14 units of equipment, and as of July 31, 1973 indicated a net worth in the amount of \$112,413. His main place of business is located in Oakland, California.

It is alleged that applicant has provided a motor transportation service since 1946; that his operations over the years have gradually and consistently expanded; that he now serves a large number of shippers on a day-to-day basis between fixed points outside the territory he is presently authorized to serve; that the expansion of his operation has increased in response to the demand of the shipping public and now exceeds the scope of his permitted authority; and that granting of the application will allow applicant to meet the requirements of his customers.

After consideration the Commission finds that:

1. Applicant is presently providing service as a permitted carrier within the proposed extended certificated area.
2. Applicant's operations within the proposed service area have materially grown and developed over the years because of an ever increasing demand for service by applicant's customers.

3. Applicant possesses the necessary equipment and financial ability to provide the proposed service.

4. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, 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.

5. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application should be granted. A public hearing is not necessary.

Applicant 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 Harry Loux, doing business as Loux & Son Drayage, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes 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 he accepts the certificate he 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 amend or 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 his 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 his 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, he 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. 54489 dated February 5, 1957 in Application No. 36226 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 18th day of DECEMBER, 1973.

William S. Gurnea President

Hamilton
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

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

Harry Loux
(an individual)
doing business as
LOUX & SON DRAYAGE

Harry Loux, 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:

1. Between all points and places in the San Francisco Territory, as described in Note A, and all points within ten miles of any point therein.
2. Between all points, on or within ten miles laterally of the following routes:
 - (a) Interstate Highway 580, between Hayward and Livermore, inclusively;
 - (b) Interstate Highway 680, between Mission San Jose and Vallejo, inclusively;
 - (c) State Highway 24, between Oakland and Walnut Creek, inclusively;
 - (d) Interstate Highway 80, between Richmond and Vallejo, inclusively; and
 - (e) State Highway 4, between Pinole and Antioch, inclusively.

In performing the service herein authorized, carrier 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.

Issued by California Public Utilities Commission.

Decision No. 82255, Application No. 54300.

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.
8. Articles of extraordinary value.
9. Fresh fruits and vegetables.
10. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
11. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

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Decision No. 82255, Application No. 54300.

12. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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 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

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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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Decision No. 82255, Application No. 54300.