

af

ORIGINAL

Decision No. 82276

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
McLAUGHLIN DRAYING CO., a corpo-
ration, for a certificate of public
convenience and necessity author-
izing the transportation of general
commodities between points within
the San Francisco Territory and
other designated points.

Application No. 54181
(Filed July 18, 1973;
amended October 25, 1973)

O P I N I O N

This is an application in which McLaughlin Draying Co., a California corporation, seeks authority to operate as a highway common carrier in the San Francisco Territory and between all points and places on or within 10 miles of the following routes:

- (a) Interstate Highway 80 between Sacramento and San Francisco, inclusive.
- (b) State Highway 21 between its intersection with Interstate Highway 80 and its intersection with Interstate Highway 680, inclusive.
- (c) Interstate Highway 680 between its intersection with Interstate Highway 80 and its intersection with State Highway 17, inclusive.
- (d) State Highway 24 between Oakland and its intersection with Interstate Highway 680, inclusive.
- (e) Interstate Highway 580 between Oakland and its intersection with Interstate Highway 205, inclusive.
- (f) Interstate Highway 205 between its intersection with Interstate Highway 580 and U. S. Highway 50, inclusive.

(g) U. S. Highway 50 between its intersection with Interstate Highway 205 and Sacramento, inclusive.

(h) State Highway 4 between its intersection with Interstate Highway 80 and Stockton, inclusive.

Applicant also requests a concurrent finding that public convenience and necessity require the same service in interstate and foreign commerce.

Applicant is presently conducting operations as a for-hire motor carrier pursuant to a radial highway common carrier permit issued to it by this Commission. This permit authorizes the transportation of general commodities to and between all points within the State of California. Applicant states that it is presently conducting operations pursuant to this permit with the large portion of such operations being conducted within the area it proposes to serve herein as a certificated motor carrier and is also presently conducting operations as a for-hire motor carrier for the transportation of certain specified commodities in interstate and foreign commerce pursuant to certificates of public convenience and necessity issued by the Interstate Commerce Commission in Docket No. MC 51574 and MC 51574 Sub No. 1.

Applicant alleges that it has been conducting operations as a permitted carrier for a substantial period of time, primarily within the area it proposes to serve as a certificated carrier. In recent years applicant has increased its fleet of operating equipment, and its scope of operations has increased to the extent that it serves a large number of shippers on a virtually day-to-day basis between fixed termini and over regular routes basically to and between those points it proposes to serve as a certificated carrier. Much of this expansion, of course, is due to the rather

significant population explosion that has taken place within this area, and it is expected that this growth in population will continue, thus continuing the demands of the shipping public for applicant's service. This growth has led to the expansion of the businesses operated by the shippers which applicant serves. Applicant is of the opinion that it must seek certificated authority from this Commission in order to perpetuate its business operation and insure that its existing and future operations will be in full and strict compliance with all the rules and regulations of this Commission.

The application was served on 87 carriers and the California Trucking Association. The amendment is restrictive and does not expand the authority requested in the original application and therefore was served only upon the protestants to the application. Three protests were received but were withdrawn after filing of the amendment. The Commission makes the following findings and conclusions:

Findings

1. A public hearing is not necessary.
2. Applicant holds a permit from this Commission to operate as a radial highway common carrier.
3. Applicant holds certificates of public convenience and necessity from the Interstate Commerce Commission authorizing the transportation of certain specified commodities in interstate and foreign commerce.
4. During the year 1972 applicant had operating revenues of \$389,864 and net earnings of \$16,399.
5. Applicant has the ability, including financial ability, to conduct the proposed operations.

A. 54181 af

6. Notice that this application was filed and that applicant will seek a certificate of registration from the Interstate Commerce Commission was published in the Federal Register on August 15, 1973.

7. 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.

8. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions of Law

1. The application should be granted as set forth in the ensuing order.

2. The territorial description of the authority herein granted reflects the names of redesignated highways and roads, and does not in any way exceed the geographical scope of the proposed operations as published in the Federal Register.

McLaughlin Draying Co. 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 McLaughlin Draying 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 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 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 18th day of DECEMBER, 1973.

I dissent:

Edith, Commissioner

Vernon L. Stevenson
President
William J. Gussow

[Signature]
Commissioners

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

McLaughlin Draying Co., 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.
2. Between all points and places on or within 10 miles laterally of the following routes:
 - a. Interstate Highway 80 between Sacramento and San Francisco, inclusive;
 - b. State Highway 21 between its intersection with Interstate Highway 80 and its intersection with Interstate Highway 680, inclusive;
 - c. Interstate Highway 680 between its intersection with State Highway 80, near Vallejo, and its intersection with State Highway 238, north of Mission San Jose, inclusive;
 - d. State Highway 24 between Oakland and its intersection with Interstate Highway 680, near Walnut Creek, inclusive;
 - e. Interstate Highway 580 between Oakland and its intersection with Interstate Highway 205; thence via Interstate Highway 205 to the intersection with Interstate Highway 5; via Interstate Highway 5 to State Highway 4; via State Highway 4 to State Highway 99 and via State Highway 99 to Sacramento, inclusive between Oakland and Sacramento;
 - f. State Highway 4 between its intersection with Interstate Highway 80 and Stockton, inclusive.

Issued by California Public Utilities Commission.

Decision No. 82276, Application No. 54181.

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.
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. Cement.
8. Logs.

Issued by California Public Utilities Commission.

Decision No. 82276, Application No. 54181.

9. Articles of extraordinary value.
10. Explosives.
11. Commodities requiring refrigeration or moving in temperative controlled equipment.
12. Commodities when moving in ocean going containers.

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; 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):

Issued by California Public Utilities Commission.

Decision No. ~~52776~~ Application No. 54181.

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

Issued by California Public Utilities Commission.

Decision No. 82275 Application No. 54181.