

Decision No. 82369**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BEST WAY SYSTEM, INC., a California)
 Corporation, for a certificate of)
 public convenience and necessity)
 authorizing the transportation of)
 General Commodities between points)
 within the San Francisco Territory.)

Application No. 54144
 (Filed July 2, 1973)

O P I N I O N

Applicant operates pursuant to a radial highway common carrier permit which authorizes the transportation of general commodities in truckload and less-than-truckload lots principally between points within San Francisco Territory with occasional shipments transported to places outside the territory.

By this application Bestway System Inc. seeks a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of general commodities, with certain exceptions, between all points and places in the San Francisco Territory as set forth in Exhibit "A" attached to the application. Applicant also requests a finding that public convenience and necessity require corresponding authority to transport shipments moving in interstate and foreign commerce.

Service of the application was made upon 62 existing carriers with which the proposed service might compete. Notice of the application was published in the Commission's Daily Calendar on July 5, 1973 and in the Federal Register on July 19, 1973. No protests have been received.

Applicant proposes a daily on-call service, Monday through Friday, which will be performed in intrastate, interstate, and foreign commerce, wholly within the State of California. The rates, rules, and regulations to be published will be the same as those set forth in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs. A tariff containing such rates and related rules and regulations will be filed by applicant upon receipt of the sought authority.

Applicant's Balance Sheet, as of December 31, 1972, (Exhibit "D" to the application) shows total assets of \$91,899.94, total liabilities of \$65,602.93, and a stockholder's equity of \$26,297.01. Its Statement of Income for the year ended December 31, 1972 (Exhibit "D") shows a net income of \$36,697.33. Applicant's equipment list (Exhibit "C") shows one three-axle tractor and six two-axle tractors, six trucks, six 40-foot trailers, two dollies, and seven forklifts.

It is alleged that operations began in 1961 by one of the officers, as an individual, primarily as a drayman and lift operator operating between the docks and piers along the San Francisco waterfront. Prior thereto the business of a local cartage and draymen, which had been operating since 1906, was purchased and merged into Bestway System. Bestway System was incorporated on June 21, 1972 as Bestway System Inc. Its Articles of Incorporation are filed with the Commission in File No. T-104616.

Applicant alleges that over the past several years its volume of business, number of customers, frequency of service, and number of employees and equipment, have been expanded and increased to meet shipper demands, and that a substantial portion of the public in both intrastate, interstate, and foreign commerce demands applicant's service on a regular daily basis.

In support of the application, applicant filed five verified statements from persons whose firms would utilize applicant's service if the application is granted. Said verified statements are hereby received in evidence as Exhibit 1. Applicant was prepared to present statements of 20 or more additional persons whose firms would utilize applicant's service.

After consideration, the Commission finds and concludes as follows:

Findings of Fact

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

The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description or routes of the authority granted reflect 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.

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 Bestway System Inc., 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 22nd day of JANUARY, 1974.

I dissent:

[Signature], Commissioner

[Signature]
President
[Signature]
[Signature]

Commissioners

Bestway System 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:

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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.

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6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Cement.
8. Logs.
9. Articles of extraordinary value.
10. 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; 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 Mayward; 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);

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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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