

ORIGINAL

Decision No. 82442

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Kiyoshi Watari (Watari Truck-
ing), to amend permit to operate
as cement contract carrier to
include Calaveras, et al., Cos.
(File T.74,084)

Application No. 53880
(Filed March 5, 1973)

E. H. Griffiths, for applicant.
Ray Greene, Attorney at Law, for Applegate
Drayage Co., Universal Transport System,
Inc., Earl Hudson Trucking, and Merle
Weber Transportation, Inc., protestants.
Michael Mallin, for Miles & Sons Trucking
Service, Inc., interested party.
W. H. Loudon, for the Commission staff.

O P I N I O N

Kiyoshi Watari, doing business as Watari Trucking,
presently provides service as a prime carrier and as a subhauler
between points in various counties within the State, pursuant to a
cement contract carrier permit duly issued by the Commission. He
requests that his permit be amended so as to authorize operations
as a prime carrier to and within the counties of Calaveras, Colusa,
Madera, San Luis Obispo, and Santa Barbara.

Public hearing was held before Examiner Daly on June
8, 1973, October 12, 1973, and December 7, 1973 at San Francisco,
with the matter being submitted on the latter date.

By Decision No. 70977 dated July 19, 1966 in Application
No. 47225, applicant, following a protested public hearing, was
authorized to operate as a subhauler between all points in the
State not covered by his existing prime carrier permit. At the
time of the hearing applicant was authorized to operate as a prime

carrier within the counties of Alameda, Contra Costa, Fresno, Los Angeles, Napa, Riverside, San Bernardino, San Joaquin, San Mateo, Santa Clara, Santa Cruz, and Sonoma. The authority to operate statewide as a subhauler was based upon a showing by applicant, which was supported by a Commission finding, that there was a public need for the use of cement subhaulers during peak periods when the prime carriers were unable to meet all of the demands for service. One of the arguments made by the protesting carriers was that if the statewide subhaul authority was granted it would inevitably lead to a subsequent attempt by applicant to remove the subhaul restriction so as to permit extended operations as a prime carrier.

In support of his request to extend operations as a prime carrier, applicant testified that many construction sites in the proposed counties are located in rugged terrain and can only be served by a 3-axle dual drive tractor with a 40-foot semitrailer; that there is a shortage of such equipment; that he owns and operates a 3-axle tractor, a 40-foot flatbed, and 40-foot semitrailer; that one-half of his gross revenue is derived from his operations as a subhauler; that it frequently takes from 45 to 65 days before he is paid by the prime carriers; and that he is not a new carrier entering the field, but an existing carrier who wants to serve the proposed counties as a prime carrier rather than as a subhauler.

A witness appearing in support of the application on behalf of Rick Minnis Trucking and Milpitas Material Company, a ready mix plant, testified that as a prime carrier he has used applicant as a subhauler on shipments of cement to job sites where semitrailer equipment is specified; that he has experienced difficulty getting subhaulers with such equipment; and that it would be more convenient to have applicant provide such service as a prime carrier, because when using applicant as a subhauler he must pay applicant 100 percent of the minimum rate even though he does all of the billing.

The testimony of another witness in support of the application was subsequently disavowed by his employer, Kaiser Cement & Gypsum Corp.

Applegate Drayage (Applegate), Miles & Sons Trucking Service, Inc. (Miles), and Universal Transport, Inc. (Universal) introduced evidence relating to their present cement carrier operations.

With the exception of the counties of Madera and San Luis Obispo, which Applegate does not serve, each of said protestants serves the proposed counties as prime carriers. Although each carrier owns and operates many sets of double tank trailers their use of semitrailers is limited. Applegate has one semitrailer, Universal has two, and Miles has none.

Witnesses appearing on behalf of the protestants testified that they have had little or no demand for semitrailers; that they primarily use double trailers because of their larger carrying capacity; that they have used applicant as a subhauler, but not because of the nature of his equipment; that on rare occasions, when access to a job site is difficult, sets of doubles have been used by disconnecting the trailers at a point convenient to the job site, delivering the cement from the first trailer to the job site, returning to the second trailer and transferring its contents to the first trailer and then making a second delivery to the job site; that with the decrease in construction and the virtual completion of the highway construction program protestants are now operating with unused capacities ranging from 50 percent to 70 percent; and that authorizing applicant to serve the proposed counties as a prime carrier would enable him to solicit business and thereby divert traffic from the existing carriers.

After consideration the Commission finds that:

1. Applicant is presently authorized to serve the counties of Calaveras, Colusa, Madera, San Luis Obispo, and Santa Barbara as a subhauler pursuant to a cement contract carrier permit duly issued by the Commission. He requests authority to serve said counties as a prime carrier, particularly in those instances where, because of the rugged terrain, access to the job site would be difficult.

2. Applicant owns and operates a 3-axle dual drive tractor, a 40-foot flatbed trailer, and a 40-foot semitrailer.

3. Protestants own and operate very few semitrailers because they have had little or no demand for such equipment and the use of double trailers is more economically feasible. On those occasions when they have experienced difficulties in gaining access to job sites they have successfully used a method of disconnecting double trailers at a point near the construction area and making two separate deliveries.

4. Applicant is fulfilling the subhaul need expressed in Decision No. 70977 by supplementing the services of prime carriers. His service is presently available to prime carrier regardless of whether it is to meet peak period demands or to provide a particular type of service.

5. The record fails to demonstrate a need for applicant's service as a prime carrier to and within the counties herein considered.

The Commission concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 53880 is denied.

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

Dated at San Diego, California, this 5th
day of FEBRUARY, 1974.

Vernon L. Sturgeon
President
William J. Synnott
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Commissioners