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Decision No. 82524

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of C. N. BATES DRAYAGE, INC., a
corporation, to request modification
or removal of a restriction appear-
ing in Commission Decision No. 80397,
dated August 29, 1972, Application
No. 53358.

Application No. 54437
(Filed November 7, 1973)

O P I N I O N

C. N. Bates Drayage, Inc., presently providing service as a highway common carrier for the transportation of shipments moving in intrastate commerce and interstate commerce between various points within the State, requests authority to remove a certain restriction from its certificated authority.

By Decision No. 80397 dated August 29, 1972 in Application No. 53358, applicant was granted a certificate of public convenience and necessity authorizing the transportation of general commodities subject to the following restriction:

"(1) Commodities shall not be transported
when in cargo containers."

Applicant requests that the restriction be removed so that it may transport commodities in cargo containers on shipments moving in intrastate, interstate, and foreign commerce.

Copies of the application were served upon 20 carriers with which the proposed service might compete and an appropriate notice was filed in the Federal Register on December 5, 1973. No protest has been received.

It is alleged that no such restriction had been contained in its prior certificated authority; that the in-lieu certificate granted by Decision No. 80397 incorporated the restriction which had been inadvertently set forth in Application No. 53358; and that the restriction imposes an economic hardship upon applicant and prevents applicant from providing its customers with a complete service.

After consideration the Commission finds and concludes that public convenience and necessity require that applicant be authorized to engage in the transportation of commodities in cargo containers on shipments in intrastate, interstate, and foreign commerce between the points authorized by Decision No. 80397. The Commission further finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary.

The authority applied for in Application No. 53358, and granted by Decision No. 80397, completely encompassed the authority already held by the carrier pursuant to Decision No. 60187. However, the description of the authority granted in Decision No. 60187 was carried over into the in-lieu certificate granted by Decision No. 80397, resulting in numerous duplications of authority. Applicant's certificate will therefore be restated to minimize this duplication, but such restatement will not diminish nor enlarge its present authority beyond that granted by this decision and as published in the Federal Register.

C. N. Bates Drayage, Inc. 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 C. N. Bates Drayage, Inc., 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.

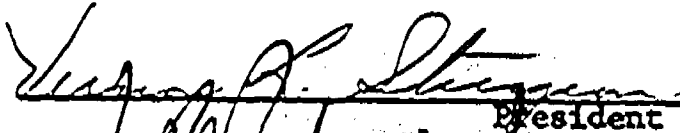
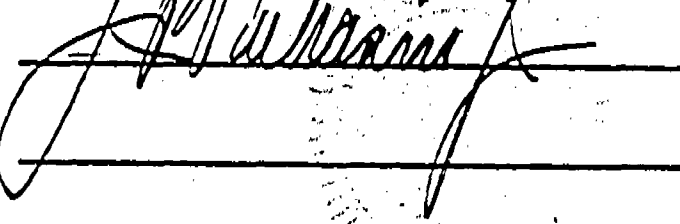
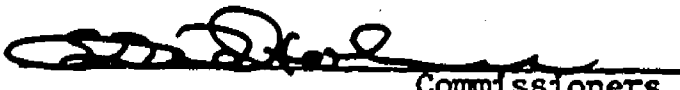
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules of the California Highway Patrol 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 amend or file tariffs, in triplicate, in the Commission's office.

- (c) The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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.

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. 80397, 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 5th day of MARCH, 1974.


President


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

C. N. Bates Drayage, Inc., a corporation, by the certificate of public convenience and necessity granted by 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, as follows:

- A. From, to and between all points and places located in the following areas and along the following routes:
1. U.S. Highway 101 between San Rafael and San Jose, inclusive, and points within 10 miles of said route;
 2. State Highway 17 between San Rafael and Los Gatos, inclusive, and points within 5 miles of said route;
 3. Interstate Highway 80 between San Francisco and Crockett, inclusive, and points within 10 miles of said route;
 4. State Highway 4 between Pinole and junction with Interstate Highway 680, inclusive, and points within 5 miles of said route;
 5. State Highway 24 between Oakland and junction with State Highway 4, inclusive.

RESTRICTION: (1) No shipments shall be transported to, from or between points in Solano County, California.

- B. 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.

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

(END OF APPENDIX A)

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