

Decision No. 84129

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DRISKELL TRUCKING, INC., a
California corporation, for a
modification of Certificates of
Public Convenience and Necessity
to operate as a highway common
carrier for the transportation of
property in intrastate and inter-
state and foreign commerce, and
for an In Lieu Certificate of Public
Convenience and Necessity therefor.

Application No. 55322
(Filed November 15, 1974)

O P I N I O N

This is an application by Driskell Trucking, Inc. (Driskell), a California corporation, to modify its existing certificates of public convenience and necessity, and for the issuance of an in lieu certificate with such modifications.

Decision No. 83126 dated July 9, 1974 granted Driskell the right to acquire a highway common carrier certificate under Section 213 of the Code and an express corporation certificate under Section 219 of the Code, which certificates applicant has acquired, and which limit the highway common carrier authority to transportation performed for the express corporation.

Ordering Paragraph No. 5 of the above decision requires Driskell to submit a proposed in lieu certificate describing and consolidating the highway common carrier and express corporation operating authority granted Driskell within one hundred eighty days from the date of transfer. The purpose of this application is to comply with that order. Applicant proposes an in lieu certificate, attached as Exhibit A of the application, which makes certain modifications in the authority granted, allegedly enabling Driskell to better serve the shipping public by handling

interstate and foreign commerce traffic, as well as intrastate traffic. Thus, Driskell is asking for a refinding of public convenience and necessity for intrastate commerce, and a concurrent finding of public convenience and necessity in interstate and foreign commerce which do not exceed the scope of its intrastate commerce authority. Accordingly, applicant caused notice of this application to be published in the Federal Register on December 11, 1974.

Applicant is presently a party to all Western Motor Tariff Bureau, Inc. tariff publications as are necessary for its operations and would continue to so participate as to the proposed modifications.

Applicant is also requesting relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure.

Findings

1. 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 this decision.

2. A public hearing is unnecessary.

3. There are no protests.

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

Conclusions

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 do not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

Driskell Trucking, 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 Driskell Trucking, 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 of this decision.

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 administered by 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 reissue 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the highway common carrier certificates of public convenience and necessity acquired by Decisions Nos. 83126 and 61415, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

4. The certificates of public convenience and necessity authorizing operations as an express corporation as defined in Section 219 of the Public Utilities Code, acquired by Driskell Trucking, Inc. pursuant to Decision No. 83126, are hereby revoked and tariffs governing such operations are canceled.

5. Relief from Section 37 of the Commission's Rules of Practice and Procedure is granted.

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

Dated at San Francisco, California, this 19th
day of FEBRUARY, 1975.

Veron L. Stinson
President
William J. Quinn-Jr.
[Signature]
Leonard Ross
Commissioners

Driskell Trucking, 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:

A. Commodities named in the following items of the National Motor Freight Classification No. 4-13, on the issue date thereof, Richard H. Hinchcliff, Issuing Officer:

1. FURNITURE GROUP AND FURNITURE PARTS GROUP; Items Nos. 79050 thru 83642.
2. COOLERS GROUP; Items Nos. 53000 thru 53304.
3. ELECTRICAL EQUIPMENT GROUP; Items Nos. 60500 thru 63522.
4. FLOOR COVERINGS OR RELATED ARTICLES; Items Nos. 70500 thru 71030.
5. VEHICLES, OTHER THAN SELF-PROPELLED; Items Nos. 188500 thru 190020.
6. IRONING BOARDS OR TABLES; Item No. 101080.
7. LAMPS OR LIGHTING GROUP; Items Nos. 109000 thru 109950.
8. MACHINERY GROUP; Items Nos. 114000 thru 133454.

B. Between:

1. All points and places within that portion of the Los Angeles Basin Area described in Note A.
2. The San Francisco Territory, as described in Note B, and the said portion of the Los Angeles Basin Area

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and, points and places on the following service routes or within 25 miles thereof:

- a. U. S. Highway 101 between Santa Rosa and the northern boundary of the territory described in Note A.
 - b. Interstate 80 from North Sacramento to junction with State Highway 99; thence via State Highway 99 to its junction with Interstate 5 and thence via Interstate 5 to the Mexican Border.
 - c. Interstate 15 or U. S. Highway 395 between the southern boundary of the territory described in Note A and the San Diego Territory, as described in Note C.
 - d. Interstate 80 from Sacramento to junction with Interstate 580, thence to Interstate 205, thence to State Highway 120 and thence to Manteca.
3. Carrier may operate over all accessible public highways between all of said termini, intermediate and off-route points, in combination, one with the other.

RESTRICTION: Carrier shall not transport shipments destined to private residential dwellings.

NOTE A PORTION OF THE LOS ANGELES BASIN AREA

Beginning at the intersection of State Highway 1 and Sunset Blvd., thence westerly along an imaginary line to the shore of the Pacific Ocean; thence southerly and easterly along the shore of the Pacific Ocean to a point directly south of the southerly terminus of State Highway 55 at Newport Beach; thence due northerly along State Highway 55 to junction State Highway 91; thence easterly along State Highway 91 through Corona, Arlington and Riverside to junction U. S. Highway 395; thence northerly and easterly to Interstate 10 to Redlands; thence northerly on State Highway 106 to junction State Highway 30; thence westerly on State Highway 30 to San Bernardino; thence westerly along State Highway 30 to its junction with Foothill Blvd.; thence westerly

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along Foothill Blvd. to junction State Highway 118; thence northerly and westerly along State Highway 118 to Interstate 405; thence southerly along Interstate 405 to Sunset Blvd. and thence south-westerly on Sunset Blvd. to point of beginning.

NOTE B

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; southwestwardly 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 Miles 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 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

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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.

NOTE C

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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