

Decision No. 84937

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of
O.K. Trucking, Co., a corporation,
for an extension and restatement of
its certificate of public convenience
and necessity authorizing operations as
a highway common carrier.

Application No. 55144
(Filed August 30, 1974;
amended February 27, 1975)

O P I N I O N

Applicant operates as a highway common carrier for the transportation of canned goods and various miscellaneous commodities between Oakland and San Leandro, on the one hand, and Modesto, Los Angeles, South Gate, and Van Nuys, on the other hand, between Newark and Los Angeles, and between Oakland and Fontana. The authority is set forth in Appendix A to Decision No. 53623 dated August 28, 1956 in Application No. 36015 and does not authorize service from, to, or between intermediate points. It also operates as a highway common carrier for the transportation of fresh fruits and vegetables between points in Northern and Southern California and various intermediate points, as a radial highway common carrier, and as a highway contract carrier.

By this application, as amended, applicant seeks authority to transport canned goods, in shipments of 10,000 pounds or more, from Sacramento, Stockton, Yuba City, Marysville, and Kingsburg to the San Francisco, Oakland, Richmond, and Alameda ports; tinplate, in shipments of 40,000 pounds or more, from Pittsburg to these ports; and cans, can caps, and fibreboard cartons in shipments of 10,000 pounds or more, from the same ports to Sacramento, Stockton, Yuba City, Marysville, and Kingsburg. The sought authority includes restrictions prohibiting refrigeration or temperature control service and also the

transportation of commodities in cargo containers, except such container shipments originating at 4000 Yosemite Boulevard, Modesto; 16th and C Streets, Sacramento; B and Lumas Streets, Yuba City; Kern and Marion Streets, Kingsburg; and 202 North Filbert Street, Stockton. A copy of the original application has been filed with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act, and notice thereof appeared in the Federal Register on September 18, 1974. The amendment eliminated a substantial amount of the authority requested in the original pleading and made no other changes. The application was protested by Pacific Motor Trucking Company, Delta Lines, Inc., and Ted Peters Trucking Company, Inc. The amendment, including the two restrictions therein, was the result of agreements between the applicant and protestants. The attorney for Pacific Motor Trucking Company notified the Commission by letter dated March 4, 1975, that the amendment to the application eliminated the extensions to which it objected and that its protest was withdrawn. The attorney for the other two protestants notified the Commission by letter dated March 14, 1975, that with the amendment to the sought authority, including the two restrictions therein, and conditioned upon the understanding that any authority, including interstate and foreign authority, would not exceed that requested in the amendment, the protest on behalf of his clients was withdrawn, and he also recommended that in order to avoid any confusion regarding applicant's interstate and foreign authority, the additional sought authority be stated separately and not in an in lieu certificate.

The application states that the proposed service would be on a daily, on-call basis; that applicant would publish rates based on those set forth in the applicable minimum rate tariffs for the proposed transportation; that many of applicant's customers require the sought additional intrastate and interstate service; and that public convenience and necessity require that the requested additional service be authorized. Applicant has four tractors, three refrigerator semitrailers, and one dolly. It asserts that it will acquire such additional equipment as may be necessary to conduct the operations proposed herein. Applicant's balance sheet of December 31, 1973 shows assets of \$58,733, liabilities of \$16,829, and stockholders'

equity of \$41,904. For the year 1973, it had revenue of \$127,550 and a net income, after income taxes, of \$2,906.

Copies of the application and amendment were served in accordance with the Commission's procedural rules, and they were listed on the Commission's Daily Calendar. Other than the protests that have been withdrawn, no other protests have been received.

We are of the opinion that the application, as amended, should be granted. We agree with the attorney for Delta Lines, Inc. and Ted Peters Trucking Company, Inc. that in order to avoid any confusion regarding applicant's intrastate and interstate certificated rights, the authority granted herein should be stated separately and not combined with its other operating authority in an in lieu certificate. We recognize that with the restriction in the amendment, the authority granted in connection with cargo container shipments is somewhat limited. This restriction was necessary to eliminate the protests of two competing carriers. For this reason and the purposes of this proceeding, the restriction will be inserted in the authority granted.

Findings

1. Applicant has the experience, equipment, and financial ability to provide the proposed additional service.
2. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, and also require that the 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.
3. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.
4. A public hearing is not necessary.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order.

O.K. Trucking Co., a corporation, 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 O.K. Trucking 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 set forth in Appendix A of this decision.

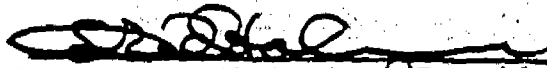
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

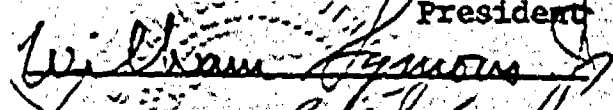
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California 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 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 30th
day of SEPTEMBER, 1975.



President


William L. Sturgeon


Robert Bateman
Commissioners

O. K. Trucking 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 following transportation, subject to the restrictions noted:

1. CANNED GOODS, in shipments of 10,000 pounds or more, from Sacramento, Stockton, Yuba City, Marysville and Kingsburg to ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda.

2. TINPLATE, in shipments of 40,000 pounds or more, from Pittsburg to ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda.

3. CANS (iron, steel or tin); CAN CAPS; and FIBREBOARD CARTONS; in shipments of 10,000 pounds or more, from ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda to Sacramento, Stockton, Yuba City, Marysville and Kingsburg.

RESTRICTIONS: The authority granted herein is restricted:

- (1) Against the transportation of commodities requiring the use of refrigeration or temperature control in specially designed and constructed refrigerator equipment.
- (2) Against the transportation of commodities in cargo containers, except shipments in cargo containers originating at 4000 Yosemite Boulevard, Modesto; 16th and C Streets, Sacramento; B and Plumas Streets, Yuba City; Kern and Marion Streets, Kingsburg; and 202 North Filbert Street, Stockton.

Issued by California Public Utilities Commission.

Decision No. 84937, Application No. 55144.