

ORIGINAL

Decision No. 85024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of TRUX TRANSPORT, INC., a  
corporation, for a Certificate of  
Public Convenience and Necessity.

Application No. 55539  
(Filed March 5, 1975;  
amended September 10, 1975)

Raymond A. Greene, Attorney at Law, for applicant.

O P I N I O N

This is an application in which Trux Transport, Inc., a California corporation, seeks intrastate authority to operate as a highway common carrier between various points in northern and central California. In addition applicant requests a concurrent finding that public convenience and necessity require the same service in interstate and foreign commerce.

The application was protested by six carriers. One of the protests was withdrawn prior to hearing.

A duly noticed public hearing was held before Examiner O'Leary at San Francisco on September 10, 1975; at the hearing counsel for applicant presented an amendment to the application which was received in evidence as Exhibit 1 and the matter was submitted.

Applicant's counsel in presenting Exhibit 1 stated that he had been contacted by three of the remaining protestants who advised him that they would not pursue their protests upon the filing of Exhibit 1. The remaining two protestants did not appear at the hearing.

Applicant holds radial highway common carrier and highway contract carrier permits.

The proposed transportation will be daily, Monday through Friday. Time in transit for this service will be both same day and overnight, depending upon the time of day requests for service are received. The rates to be assessed will be on the same scale as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs.

Applicant alleges that public convenience and necessity require the proposed service for the following reasons: Applicant is presently conducting operations as a for-hire motor carrier primarily to and between those points it proposes to serve herein as a certificated motor carrier pursuant to its existing permitted authority. Since first commencing these operations, its fleet of equipment has expanded considerably and the scope of its operations have similarly expanded to the extent that it now serves a large number of shippers on virtually a day-to-day basis with an ever increasing degree of regularity and frequency. The expansion of the applicant's motor carrier operations is attributable in part to the large scale population influx within the area proposed to be served, which is expected to continue to grow, thereby placing greater service demands on the applicant.

Applicant further alleges that it must of necessity apply for a certificate of public convenience and necessity to perpetuate existing operations in a manner benefitting the shipping public, consistent with the rules and regulations of the Commission. Applicant is desirous of acquiring the authority to serve both in interstate and intrastate commerce to allow it to continue to fully serve its customers.

Findings

1. Applicant presently holds radial highway common carrier and highway contract carrier permits authorizing the transportation of general commodities, with the usual exceptions, between all points in California.

2. Applicant presently operates 10 tractors, 5 trucks, 17 trailers, and 8 dollies.

3. During the calendar year 1974 applicant had operating revenues of \$296,909, and a net operating income of \$4,868. Its assets totaled \$89,453, liabilities totaled \$109,898, resulting in stockholders' deficit equity of \$20,445 as of December 31, 1974.

4. Applicant has the ability and experience to conduct the proposed operations.

5. Notice that this application was filed and that it seeks interstate rights was published in the Federal Register on March 19, 1975.

6. 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.

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

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

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 Trux Transport, 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 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 is the date hereof.

Dated at San Francisco, California, this 21st  
day of OCTOBER, 1975.

I dissent:

Edward J. [Signature], Commissioner

William J. [Signature] President  
Veronica A. [Signature]  
[Signature] Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

Trux Transport, Inc., 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 by Section 213 of the Public Utilities Code for the transportation of general commodities except as hereinafter provided, as follows:

1. Between all points and places in the San Francisco Territory as described in Note A.
2. Between all points and places on or within 20 lateral miles of the following routes:
  - (a) Interstate Highway 80 between San Francisco and Sacramento, inclusive;
  - (b) State Highway 4 between its junction with Interstate Highway 80 near Pinole, and Stockton, inclusive;
  - (c) Interstate Highway 580 between its intersection with State Highway 17 and its intersection with Interstate Highway 5, inclusive;
  - (d) Interstate Highway 5 between its intersection with State Highway 4 at Stockton and its intersection with State Highway 152, inclusive;
  - (e) State Highway 120 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive;
  - (f) State Highway 99 between Sacramento and Fresno, inclusive;
  - (g) State Highway 152 between Watsonville and its intersection with State Highway 99 near Fairmead, inclusive;
  - (h) U.S. Highway 101 between its intersection with Tully Road at San Jose and Gilroy, inclusive;

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- (i) State Highway 17 between its intersection with Los Gatos-San Jose Road at Los Gatos and its intersection with State Highway 1 at Santa Cruz, inclusive;
- (j) State Highway 1 between its intersection with State Highway 17 at Santa Cruz and its intersection with State Highway 152 near Watsonville, inclusive;

In performing the service herein authorized, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

## 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; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly

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along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles 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 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.

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 salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
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,

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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-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Radiopharmaceuticals, radioactive chemicals, live animals and diagnostic kits.
11. General commodities between all points and places in the San Francisco Territory as described in Note A hereof having a prior or subsequent movement by air.

(END OF APPENDIX A)

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