

ORIGINAL

Decision No. 85124

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GHIGLIONE AND JENSEN, doing business
as Rodgers Trucking, for a certifi-
cate of public convenience and
necessity authorizing the transpor-
tation of general commodities
between points within San Francisco
Territory and other designated
points.

Application No. 54642

George W. Korte, Attorney at Law, for applicant.
William D. Taylor, Attorney at Law, for City
Drayage Co., Inc., protestant.

OPINION ON REHEARING

By its original application filed February 8, 1974, Ghiglione and Jensen, a California corporation, doing business as Rodgers Trucking, requested a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of general commodities, with certain exceptions, between points within an area from Santa Rosa and Sacramento, on the north, to Carmel, Salinas and Modesto, on the south. Corresponding interstate authority was also requested and an appropriate notice was published in the Federal Register on September 11, 1974.

As the result of several protests, which were filed with the Commission, applicant amended its application on three occasions, thereby reducing the proposed area to that covered by the San Francisco Territory. With the exception of that filed by City Drayage Co., Inc. (City) all protests were withdrawn. On December 10, 1974, by ex parte Decision No. 83789 the Commission granted the application, as amended, and noted that City, which had

been granted extensive certificated authority, "is selective in pursuing its protest to the amended application to the extent that it has shown no interest in other pending applications, which also request authority to serve the San Francisco Territory. The protest is not substantial enough to justify a public hearing."

On December 20, 1974, City filed a petition for reconsideration and oral hearing. By Decision No. 84035 dated January 28, 1975, the Commission issued an order granting reconsideration and hearing.

Public hearing was held before Examiner Daly at San Francisco and was submitted on July 21, 1975, upon receipt of concurrent briefs. Applicant thereafter decided not to file a brief and City filed its brief on September 3, 1975.

Applicant's Case

Applicant proposes a daily, same-day, or overnight service depending upon the time of day requests for service are received. The proposed rates would be comparable to those set forth in Minimum Rate Tariff 2.

Applicant owns and operates 34 units of equipment and employs the services of 17 drivers. Applicant's principal place of business is located in San Leandro and as of March 31, 1975, it indicated a net worth in the amount of \$96,576.

Applicant's president testified that he worked for Pacific Motor Trucking Company until 1965; that from 1965 to 1972 he worked for City as a dispatcher; that in 1972 he left the employ of City and purchased the Rogers Trucking Company, which then had three employees and operated five trucks pursuant to permitted authority; that 20 percent of applicant's shipments receive same-day service; that 80 percent of its traffic consists of less than truckload shipments; that the operation has grown from 20,000 tons a week in 1972 to 1,000,000 tons a week at the present time; and that the material growth and development of the operation over the years has resulted

from the ever-increasing demand for service by applicant's customers.

Public Witnesses' Testimony

1. Neville J. Hanson, San Leandro. Traffic and warehouse manager, Kellogg Company. Distributes cereal in cases to warehouse jobbers, Safeway and Lucky stores. Uses Delta, CME, PMT, Caltrans, Sterling, Nielsen, and applicant. Uses applicant locally within the San Francisco Territory. Has used applicant for seven years. Its service is prompt and responsive. Ships daily to points within the proposed area. Applicant provides two to five trucks a day for his shipments. Has interstate shipments from San Francisco to San Leandro.
2. Robert Amirine, Oakland. Traffic and purchasing, Corn Nuts Incorporated. Manufactures and distributes toasted corn products. Ships to points within the San Francisco Territory and beyond. Uses 15 carriers including applicant. Has used applicant for several years. Applicant picks up four or five times a week. Shipments range in weight from 300 to 22,000 pounds. Applicant's service is very good. Has interstate shipments between San Francisco and San Jose.
3. Victor Peterson, San Leandro. Warehouse manager, Celanese Pipe and Fitting Division. Ships pipe and fittings to wholesalers and jobbers. Uses seven carriers. Has used applicant for two years. Applicant's service is excellent. Drivers are familiar with the codes and markings. Ships to all points within the San Francisco Territory. Shipments average approximately 6,000 pounds. Ships about two vans per week.
4. Thomas Devine, San Leandro. Traffic manager, H. S. Crocker Co. Ships stationery supplies to school districts, companies, and to retail stores. Uses approximately six carriers. Has used the services of applicant for a year. Shipments range from 100 to 40,000 pounds. Ships daily to points within the San Francisco Territory. Receives interstate shipments from San Francisco to San Leandro. Would like to split-deliver the interstate shipments from San Francisco to points within the San Francisco Territory. Leases a vehicle from applicant which is used in the

Berkeley and Alameda areas only. Has split-delivery shipments from San Leandro to points in the San Francisco Territory. Also uses the services of Delta, Golden West, Nielsen, System 99, and on occasion uses PMT.

5. William Smith, Oakland. Distribution manager, Brooks Products, Inc. Manufactures precast concrete products. Uses the service of Delta, ONC, Moore, Solvang, Nielsen, and applicant. Has used applicant for the past six months to points within the San Francisco Territory. Shipments range in weight from 200 to 30,000 pounds. Requires flatbed equipment. Operates two proprietary units. Applicant gets approximately 17 percent of his total traffic.

Protestant's Case

By Decision No. 83547 dated October 8, 1974 in Application No. 54277, City was authorized to transport general commodities with certain exceptions between points within an area from Santa Rosa, Calistoga and Sacramento, on the north, to Carmel, Salinas, and Tulare, on the south. It is also authorized to provide a corresponding interstate service.

Findings

1. Applicant and its predecessor have been operating within the proposed area as a permitted carrier for a number of years.
2. From 1972 to 1975 applicant's operations have substantially grown in response to its customers' shipping needs and requirements.
3. Applicant's service is highly personalized in that shipments are picked up at the customers' convenience on a scheduled basis; applicant's drivers have a personal knowledge of the customers' shipping requirements; and a high percentage of applicant's shipments are picked up and delivered on a same-day basis.
4. The fear expressed by City that applicant, upon certification, would pose a threat to its operations is without merit. Applicant and its predecessor have been providing service within

the proposed area for some time. It is not a new carrier entering the field for the first time. Although both applicant and City are closely based and similarly engaged in providing highly personalized services none of the witnesses who appeared on behalf of applicant had used or were using the services of City.

5. In the past two years the Commission has, on an ex parte basis, authorized many carriers to serve the San Francisco Territory. Neither these carriers nor the hundreds of permitted carriers presently operating within the area will be any more or less competitive with City than applicant would be if certificated.

The Commission concludes that Decision No. 83789 should be affirmed.

O R D E R

IT IS ORDERED that Decision No. 83789 is hereby affirmed.

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1975.

I dissent:

[Signature] Commissioner

William J. Lyons President

Veronica L. Sturgeon

Tom

Robert

Commissioners