

Decision No. 85328**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
 tion of CASAZZA TRUCKING CO.,)
 a Nevada corporation, for)
 authority to acquire highway)
 common carrier certificates of)
 C. H. MILLER, an individual)
 doing business as C. H. MILLER)
 TRANSPORTATION.)

Application No. 55996
 (Filed October 9, 1975)

OPINION

The applicants request authority for:

1. C. H. Miller, an individual, doing business as C. H. Miller Transportation (seller) to sell and transfer and Casazza Trucking Co., a Nevada corporation qualified to do business in California (purchaser), to purchase and acquire a portion of one certificate of public convenience and necessity and another certificate in its entirety, such certificates authorizing highway common carrier operations.
2. Purchaser to encumber the operating authorities by Security Agreement which provides for the authorities to be collateral to secure payment to seller.

The certificates to be transferred were granted by:

1. Decision No. 77428, dated June 30, 1970, in Application No. 51895. This certificate authorizes transportation of property necessary or incidental to the establishment, maintenance or dismantling of oil or water wells, pipe lines and certain other industrial facilities, material and equipment used in construction of roads, dams, bridges, power and compressor plants, between points in 28 counties located throughout the State. This certificate was registered with the Interstate Commerce Commission in Docket No. MC-116881 (Sub No. 4).
2. Portion of a certificate granted by Decision No. 71455, dated October 25, 1966, in Application No. 48740. Such operating rights include transportation of specified commodities, between points and over a number of routes

generally north and east of Marysville. Interstate Commerce Commission registration of this operating right was in Docket No. MC-116881 (Sub - No. 3).

Along with the California certificates, the transfer includes an Interstate Certificate of Public Convenience and Necessity, MC-116881 (Sub 2) which was granted by the Interstate Commerce Commission. C. E. Miller, in addition to the rights to be transferred, holds other certificated operating authority and highway carrier permits issued by this Commission. Casazza Trucking Co. holds highway carrier permits issued by this Commission and operating rights granted by the Interstate Commerce Commission.

Pursuant to the Agreement of July 8, 1975, (Exhibit C) between the parties, the purchase price for the intrastate and interstate operating authorities to be transferred is \$115,000. Thirty thousand dollars will be paid on consumation which is contingent upon approval of the sale and transfer by this Commission and the Interstate Commerce Commission. The balance shall be paid at 9 percent interest per annum, in 120 monthly payments each in the sum of \$708.33 commencing one month from the date of consummation.

The security provisions of the Agreement and the related Security Agreement (Exhibit D) refer to the California certificated authority with their corresponding certificates of registration and also the Certificate of Public Convenience No. MC-116881 (Sub No. 2), issued by the Interstate Commerce Commission, as collateral for the transaction. This Commission's jurisdiction does not extend to operating rights issued directly by the Interstate Commerce Commission and our approval of the transaction will not include transfer or encumbrance of the interstate certificate of public convenience and necessity.

The unaudited balance sheet of September 30, 1974, for Casazza Trucking Co., shows assets of \$450,813 and liabilities of \$142,273 which indicates a net worth of over \$300,000. Its highway equipment includes ten tractors and twenty-seven trailing vehicles.

Seller is party to Western Motor Tariff Bureau, Inc., Agent, and Pacific Motor Tariff Bureau, Inc., tariff publications as are necessary for publication of rates to cover the operations under the certificates to be transferred. Purchaser will be required to adopt those tariffs or to publish rates and rules to cover the transferred certificates.

Copies of the application were allegedly served on the California Trucking Association and on carriers with which the service may be competitive. Notice of the filing of the application was made in the Commission's Daily Calendar of October 14, 1975. No protests to the application have been received.

It is alleged that purchaser has been operating as a for-hire carrier in California transporting the involved commodities for many years, has the knowledge, experience, equipment and facilities to perpetuate the service under the subject certificates and is ready, willing and able to do so. It is further alleged that the grant of the transfers sought will not constitute a major action having a significant effect upon the quality of human environment as the authority sought is to perpetuate an established service under existing certificates.

After consideration, the Commission finds that the proposed transfer and encumbrance of the operating rights issued by this Commission would not be adverse to the public interest.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the California certificates subject to the application and the issuance of certificates in appendix form to C. H. Miller and Casazza Trucking Co. The new certificates issued to the applicants will not broaden or change the interstate or foreign commerce rights held by the carriers.

Applicants are 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. The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1976, C. H. Miller, an individual, may sell and transfer the operative rights issued by this Commission as referred to in the application to Casazza Trucking Co., a Nevada corporation.

2. Purchaser may execute and deliver Guaranty and Security Agreements in substantially the same form as those attached to the application in Exhibits C and D thereof to the extent that such agreements apply to certificates issued by this Commission.

3. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificates and a true copy of the bill of sale or other instrument of transfer.

4. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show they have adopted or established, as their own, the rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The tariff filings made pursuant

to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authorities granted by this decision.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 4, certificates of public convenience and necessity are granted to Casazza Trucking Co., and C. H. Miller, an individual, authorizing them to operate as highway common carriers as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A and B, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted by Decision No. 77428 and Decision No. 71455 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 4 hereof.

7. Applicants shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. Applicants shall maintain their 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, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elects not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 6th day of January, 1976.

Labstain
Robert Labstain
Commissioner

~~522560~~
President
William Lyman J.
Vernon L. Sturgeon
J. R.
Commissioners

Casazza Trucking Co., a Nevada corporation, 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 general commodities as follows:

- I. (A) For the transportation of specified commodities described in Paragraph B hereof between the following points:

Between all points and places and over the routes specified, including all off-route points located within a radius of 10 miles laterally of the named highways, as follows:

1. Between Marysville and Susanville via State Highway 70 to its junction with State Highway 89 approximately 1 mile east of Paxton; thence via State Highway 89 to its junction with State Highway 36 approximately 3 miles southwest of Chester; thence via State Highway 36 to Susanville.
2. Between Marysville, Sierraville, and the junction of U.S. Highway 395 and State Highway 70 near Hallelujah Junction, via State Highway 20 to Grass Valley; thence via State Highway 49 to Sattley; thence via State Highway 49-89 to Sierraville; thence via State Highway 49 to Vinton; thence via State Highway 70 to its junction with U.S. Highway 395 near Hallelujah Junction.
3. Between Susanville and junction of U.S. Highway 395 and State Highway 70 near Hallelujah Junction via State Highway 36 to Johnstonville; thence via U.S. Highway 395.
4. Unnumbered highways and roads between Susanville, Walkermine, Cascade, Gibsonville, Taylorville, Mohawk, Portola, Calpine, Challenge, La Porte, Bangor, Marysville, Honcut, Enterprise, Janesville, Englemine, Genesee, Quincy, and Indian Falls.

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- (B) For the Transportation of specified commodities as follows:

BUILDING or PAVING MATERIALS, MISCELLANEOUS, as listed under that heading in Items Nos. 15860 through 16870.

CONDUITS, DRAIN TILE, SEWER PIPE, OR RELATED ARTICLES, CLAY, CONCRETE or EARTHEN, as listed under that heading in Items Nos. 28980 through 29210.

CONDUITS, PIPE, SMOKESTACKS, TUBING or FITTINGS, OTHER THAN CLAY, CONCRETE or EARTHEN, as listed under that heading in Items 29220 through 30440.

ELECTRICAL APPLIANCES or EQUIPMENT, or PARTS NAMED, as listed under that heading in Items Nos. 34020

IRON and STEEL ARTICLES, as listed under that heading in Items Nos. 53610 through 55290.

MACHINERY or MACHINES or PARTS NAMED, as listed under that heading in Items Nos. 58470 through 67392.

OUTFITS, as listed under that heading in Items Nos. 73380 through 74240.

RAILWAY MATERIAL or EQUIPMENT, as listed under that heading in Items Nos. 80835 through 82950.

VEHICLES, MOTOR, as listed under that heading in Items Nos. 93315 through 93440.

VEHICLE PARTS, as listed under that heading in Items Nos. 93445 through 94790.

MISCELLANEOUS COMMODITIES, Viz.:

Cement, hydraulic, masonry, motar, natural or Portland.

Culverts

Mine props or timbers

Ties, railroad

Tunnel segments.

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NOTE: The term "Items" as used above refers to the specified items as listed in Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

II. For the transportation of commodities described in Paragraphs A, B & C hereof between the following:

All points and over all routes and highways located in the counties of Alpine, Amador, Calaveras, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Mono, Monterey, Nevada, Orange, Placer, Riverside, San Benito, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Sierra, Tulare, Tuolumne and Ventura.

- (A) Property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.
- (B) Material and equipment used in the construction of roads, dams and bridges.
- (C) Material and equipment used in the construction of and destined for power and compressor plants.

Subject to the following restrictions:

1. Carrier shall not transport any shipment which shall carry a charge lower than applicable to a shipment of 10,000 pounds.
2. Carrier shall not transport any shipments of lumber and forest products except in connection with the transportation of property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.
3. Carrier shall not transport any shipments of iron and steel articles and tin plate, having their origin or destination at Pittsburg, California.

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4. Transportation performed under the authority herein granted shall be limited to commodities originating at or destined to an oil well site, construction site or storage yard.

(END OF APPENDIX A)

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C. H. MILLER
(an individual)
dba
C. H. MILLER TRANSPORTATION

C. H. Miller, an individual, doing business as C. H. Miller Transportation, 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 general commodities for the transportation of:

Lumber and Forest Products as described in Item No. 660 of of Original Pages 52 and 53 of MRT No. 2, effective May 16, 1939 between the points and over the following routes:

- A. To, from and between points in Butte County, California and over the following routes:
 - 1. Over State Highway 99 within the confines of Butte County.
 - 2. Points in Butte County 10 miles south of Vina.
 - 3. Points in Butte County between Chico and the Butte-Tehama County Line via State Highway 32.
- B. Between those points and over those routes in Butte County as hereinabove specified in A, 1, 2 and 3 on the one hand, and on the other hand, the following named points and routes:
 - 1. Over Interstate Highway 5 between California-Oregon State Line and its junction with State Highway 113 near Woodland; thence via State Highway 113 to its junction with Interstate Highway 80 at Davis; thence via Interstate Highway 80 to Sacramento.

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dba
C. H. MILLER TRANSPORTATION

2. Over State Highway 99 between Red Bluff and Modesto.
3. Over U.S. Highway 97 between California-Oregon State Line and Interstate Highway 5.
4. Over State Highway 96 between Interstate Highway 5 and State Highway 299.
5. Over U.S. Highway 101 between the California-Oregon State line and its junction with State Highway 36 at Alton.
6. Over U.S. Highway 199 between California-Oregon State Line and Crescent City.
7. Over State Highway 3 between Callahan and a point approximately 1 mile south of Carrville; thence via an unnumbered highway to Towerhouse (18 miles west of Redding).
8. Over State Highway 299 between U.S. Highway 101 and Alturas.
9. Over State Highway 89 between its junction with State Highway 44 and Interstate Highway 5.
10. Over State Highway 44 between Redding and its junction with State Highway 89.
11. Over State Highway 36 between its junction with U.S. Highway 101 at Alton and its junction with an unnumbered road approximately 1 mile northeast of Westwood; thence via said unnumbered road to Westwood.
12. Over Interstate Highway 80 between Sacramento and San Francisco.
13. Over Interstate Highways 5, 205, 580 and 80 between Stockton and San Francisco.

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C. H. MILLER
(an individual)
dba

C. H. MILLER TRANSPORTATION

14. Over State Highway 12 between its junction with Interstate Highway 80 near Cordelia and Napa.
15. Over State Highway 37 between its junction with Interstate Highway 80 near Vallejo and its junction with U.S. Highway 101 approximately 1 mile northwest of Ignacio.
16. Over U.S. Highway 101 and State Highway 82 between Ukiah and San Jose.
17. Over State Highway 17 between Oakland and San Jose.
18. Over Interstate Highway 80 via San Francisco-Oakland Bay Bridge from its junction with State Highway 17 to its junction with U.S. Highway 101.
19. With the right to serve all points embraced within the following laterals to the above-described routes:
 - a. Thirty-five miles north of Corning and Vina and
 - b. Ten miles south of Corning and Vina and
20. Intermediate points within the above-described routes and laterals.
- C. Between those points and over those routes in Butte County as hereinabove specified in A, 1, 2 and 3 on the one hand, and on the other hand, the following named points and routes:
 1. Between Sacramento and Berkely via State Highways 160, 4, 24 and 13.

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(an individual)
dba
C. H. MILLER TRANSPORTATION

2. Between San Jose and the California-Mexican Border via U.S. Highway 101, State Highway 1 and Interstate Highway 5.
3. Between Modesto and the California-Mexican Border via State Highway 99 to Wheeler Ridge; thence via Interstate Highway 5 to Los Angeles; thence via Interstate Highway 10 to Riverside; thence via Interstate Highway 15 to San Diego; thence via Interstate Highway 8 to El Centro; thence via State Highway 86 to its junction with the State Highway 111 approximately 1 mile east of Heber; thence via State Highway 111 to the California-Mexican Border.
4. Between the junction of Interstate Highway 205 (business) and State Highway 33 approximately 3 miles east of Tracy, and Ventura, via State Highway 33.
5. Between Bakersfield and the California-Mexican Border via State Highway 58 to its junction with U.S. Highway 395 at Kramer Junction; thence via U.S. Highway 395 to its junction with Interstate Highway 15 near Hesperia; thence via Interstate Highway 15 to its junction with Interstate Highway 10 east of Colton; thence via Interstate Highway 10 to Indio; thence via State Highway 111 to its junction with State Highway 86 near Coachella; thence via State Highway 86 to its junction with State Highway 111 approximately 1 mile east of Heber; thence via State Highway 111 to the California-Mexican Border.
6. Between Chico and the junction of State Highways 32 and 36 via State Highway 32.
7. Between Sacramento and the California-Nevada State Line via Interstate Highway 80.

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C. H. MILLER
(an individual)
dba

C. H. MILLER TRANSPORTATION

8. Between Sacramento and the California-Nevada State Line via U.S. Highway 50.
9. With the right to serve points adjacent to the above routes located within 35 miles laterally thereof; and
10. Between intermediate points.

(END OF APPENDIX B)

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