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ORIGINAL

Decision No. 85541

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DALZ LINES, INC., and
CALIFORNIA FREIGHTWAYS, a
corporation, for authority to
transfer the certificate of
public convenience and
necessity of Dalz Lines, Inc.,
to California Freightways, and
for an extension of highway
common carrier certificate and
for an in lieu certificate of
public convenience and necessity
to permit California Freightways
to operate as a highway common
carrier of property in intrastate,
interstate, and foreign commerce.

Application No. 55896
(Filed August 27, 1975;
amended January 22, 1976)

O P I N I O N

Applicants, Dalz Lines, Inc. (Dalz) and California Freightways (Cal-Freight), are California corporations, wholly owned and operated by William F. Dalzochio, operating as highway common carriers of property within California. By this application, as amended, authority is requested to transfer Dalz's certificate of public convenience and necessity to Cal-Freight, for an extension of the latter carrier's existing certificate, and for the issuance of an in lieu certificate to Cal-Freight. A copy of the application has been filed with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act, and notice thereof was published in the Federal Register of December 5, 1975.

Dalz presently operates pursuant to a certificate of public convenience and necessity issued by Decision No. 79616 dated January 18, 1972 in Application No. 52907. The certificate authorizes Dalz to transport general commodities, with the usual exceptions, between all points and places in and within 5 miles of points in the San Francisco Territory. The certificate issued by Decision No. 79616 has been registered with the Interstate Commerce Commission and a certificate of registration authorizing coextensive transportation by Dalz in interstate and foreign commerce has been issued in Docket No. MC-121686.

Dalz is also authorized to operate as a highway contract carrier and radial highway common carrier. Under its permitted authorities Dalz may transport general commodities between all points in California except those wholly within San Diego, Los Angeles, and Orange Counties.

Cal-Freight's present certificate of public convenience and necessity was issued by Decision No. 54856 dated April 16, 1957 in Application No. 36489. The certificate authorizes Cal-Freight to transport general commodities, with certain exceptions, between Los Angeles, on the one hand, and San Francisco, Oakland, Fresno, Bakersfield, and Compton, on the other hand. No authority was granted to serve intermediate or off-route points.

Cal-Freight also holds permitted authority to operate as a highway contract carrier and radial highway common carrier. The permits authorize transportation of general commodities between all points within a radius of 350 miles from Fresno.

Authority is now requested to consolidate the Dalz and Cal-Freight certificated operations into a single unified Cal-Freight highway common carrier service. In addition, it is proposed that the consolidated operations be rounded out and extended, with certain restrictions, to serve generally between points in the San Francisco Territory and Sacramento, on the one hand, and points in the Los Angeles Basin and San Diego Territories, on the other hand, including intermediate points located within 20 air miles laterally of the designated routes of operations. It is also requested that Cal-Freight be issued an in lieu certificate covering its proposed extended highway common carrier operations. The application states that the sought authority, if granted, will have the effect of making Cal-Freight the sole survivor of the two independently operated but commonly owned and controlled certificated highway common carriers.

The proposed transportation service will be performed on a daily basis, Monday through Friday. Applicants' present tariff rates and charges are published in Western Motor Tariff Bureau Tariffs 107, 109, and 111. The proposed extended service will be performed under the same general tariff rates, rules, and charges or the Commission's governing minimum rate tariffs. Applicants have shown that they have sufficient equipment and financial resources to perform the proposed consolidated highway common carrier service.

It is contended that public convenience and necessity require applicants to merge their existing operations and the proposed extension thereof in order to serve the public more efficiently. As a result of a recent survey of applicants' transportation records and operations by the Commission staff it was determined that applicants may be operating beyond the scope of their certificated and permitted authorities and should consider applying for extended highway common carrier authority. As a result of this investigation Application No. 55896 was filed in order to insure Cal-Freight's continued ability to serve its customers in the future as applicants have jointly served in the past. Certain of these customers have assertedly been served for as long as 10 years and their shipping requirements have consistently increased, which has affected the regularity and scope of service and the volume of business enjoyed by applicants. It is explained that although applicants have twice obtained additional certificated authority from the Commission they still find the need for extended operating authority in order to satisfy the demands of their shipping public. By grant of the authority requested herein, applicants maintain that they will be able to afford the character of service that will meet the requirements of the shippers they are servicing and will permit them to continue to experience an orderly growth in the future.

Notice of the filing of Application No. 55896 was served on competing carriers and the application was listed on the Commission's Daily Calendar for September 3, 1975. In light of the subsequent amendment to the initial application, the September 4, 1975 protest of Pacific Motor Trucking Company to ex parte consideration of the sought authority was withdrawn. No other protests to the application have been received.

Findings

1. Dalz and Cal-Freight are two independently operated but commonly owned highway common carriers.
2. The proposed transfer of Dalz's certificated operations to Cal-Freight is not adverse to the public interest.
3. Upon the merger of Dalz's certificated operations into those of Cal-Freight the latter surviving highway common carrier will have the experience, equipment, and financial ability to provide the proposed additional service.
4. Public convenience and necessity require that Cal-Freight be authorized to extend its operations in intrastate commerce as proposed in Application No. 55896, as amended, and also require that it be authorized to engage in operations in interstate and foreign commerce within the limits which do not exceed the scope of the intrastate operations authorized in this proceeding.
5. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect upon the environment.
6. A public hearing is not necessary.

Conclusions

The Commission concludes that Application No. 55896, as amended, should be granted as set forth in the ensuing order.

The authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred or the value of the capital stock of California Freightways.

California Freightways 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. On or before July 1, 1976 Dalz Lines, Inc. may transfer the operative rights granted to it by Decision No. 79616 and the property referred to in the application to California Freightways.
2. Within thirty days after the transfer California Freightways shall file with the Commission written acceptance of the certificate and a true copy of the instrument of transfer.
3. A certificate of public convenience and necessity is granted to California Freightways, 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.
4. The certificate of public convenience and necessity granted in Ordering Paragraph 3 of this order shall supersede the certificates of public convenience and necessity granted by Decisions Nos. 79616 and 54856, which certificates are revoked effective concurrently with the effective date of the tariff filings required by Ordering Paragraph 5(b).

5. In providing service pursuant to the authority granted by this order applicant, California Freightways 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 9th day of MARCH, 1976.

William J. Furman President
Harmon L. Berger
Don
Robert K. ... Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

California Freightways, a California 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:

1. Between all points in San Francisco Territory (As described in Note A hereof) (See restriction below).
2. Between all points in San Francisco Territory (See Note A hereof) on the one hand, and points in the Los Angeles Territory (As described in Note B hereof) and San Diego Territory (As described in Note C hereof) on the other hand. (See restriction below).
3. Between all points in San Francisco Territory (See Note A), Los Angeles Territory (See Note B), and San Diego Territory (See Note C) on the one hand, and all intermediate points on and within 20 miles laterally of the highways described in Routes a through i hereof, on the other hand. (See restriction below).
 - a. Interstate Highway 80 between Oakland and Sacramento inclusive.

Exceptions: (1) Service to lateral points north of Interstate Highway 80 is limited to points not more than 5 miles north of said highway.

(2) No service is authorized between San Francisco Territory and Sacramento except: service is authorized from Sacramento to San Francisco Territory (See Note A) restricted to the transportation of Canned or Preserved Food-stuffs and commodities shipped for the account of the United States Government.

- b. State Highway 4 between its junction with Interstate Highway 80 near Pinole and Stockton, inclusive.

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- c. U.S. Highway 101 between San Jose and Los Angeles, inclusive, thence on Interstate Highway 5 to San Diego, inclusive.
- d. State Highway 1 between its junction with U.S. Highway 101 near Montalvo and Interstate Highway 5 at San Juan Capistrano.
- e. State Highway 118 between its junction with State Highway 126 at Saticoy, thence on State Highway 126 to its junction with U.S. Highway 101 at Ventura.
- f. State Highway 99 between Sacramento and Wheeler Ridge and Interstate Highway 5 between Wheeler Ridge and San Fernando, inclusive, except that the carrier, pursuant to this authority, shall not serve any point more than five miles easterly of this route between Bakersfield and San Fernando.
- g. San Joaquin County Road J4 (Grant Line Road and Kasson Road) from Santa to its junction with Interstate Highway 5; thence on Interstate Highway 5 to its junction with State Highway 33; thence on State Highway 33 to its junction with State Highway 166 at Maricopa; thence on State Highway 166 to its junction with Highway 99 at Mettler.
- h. Interstate Highway 15 between Temecula and San Diego, inclusive.
- i. State Highway 33 and State Highway 119 between Ventura and Greenfield, inclusive, including the off-route points of Santa Paula and Fillmore.

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

RESTRICTION: No service is authorized on shipments originating at or destined to points and places located south of an imaginary line drawn between San Luis Obispo

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and Bakersfield, except on split delivery shipments when final component destination is north of said imaginary line.

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, 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.

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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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

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);

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

NOTE B

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to MacLay Avenue; northeasterly along MacLay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State

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Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

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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