

Decision No. 86201

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
 of Dreisbach Export Packing Co., )  
 Inc., a California corporation, )  
 doing business as DREISBACH DRAY- )  
 AGE CO. for an in lieu Certifi- )  
 cate of Public Convenience and )  
 Necessity to operate as a Highway )  
 Common Carrier in intrastate com- )  
 merce, and for a co-extensive )  
 Certificate of Registration for )  
 interstate and foreign commerce, )  
 pursuant to the provisions of )  
 sections 1063 and 1064 of the )  
 Public Utilities Code of the State )  
 of California. )

Application No. 56462  
 (Filed May 4, 1976,  
 amended June 29, 1976)

O P I N I O N

Applicant requests an in lieu certificate of public convenience and necessity as a highway common carrier and a finding of public convenience and necessity under Section 206 (a) (6) of the Interstate Commerce Act for co-extensive operations in interstate and foreign commerce for the following transportation:

1. General commodities with the usual exceptions and except wine and wine products originating at or destined to points in Napa County or points within ten statute miles thereof.

2. Between points in the San Francisco Territory and within 25 statute miles thereof.

Applicant presently operates as a highway common carrier for transportation of foodstuffs, pet food and pet food ingredients, in vehicles equipped with mechanical refrigeration, between points within the said San Francisco Territory and points within 25 miles thereof pursuant to a certificate issued by Decision 83638, dated October 22, 1974, in Application 55025. The certificate is subject to a Certificate of Registration issued by the Interstate

Commerce Commission in Docket MC-121753. In addition, the applicant operates under highway carrier permits issued by this Commission.

Applicant alleges that public convenience and necessity require the proposed service. In conjunction with applicant's present certificated operations within the requested service territory, shippers frequently request it to handle general commodities in addition to existing specific commodities ("foodstuffs, pet foods and pet food ingredients, in vehicles equipped with mechanical refrigeration.")

Within the area encompassed by applicant's present certificated service, it may meet these general commodity service requests for intrastate shipments under its existing permits. Applicant may also meet these service requests for a lesser geographical area for interstate and foreign shipments under the partial exemptions provided by Congress in Sections 202 (c) and 203 (b) (8) of the Interstate Commerce Act (49 USC 302 (c) and 303 (b) (8) dealing with terminal area and commercial zone operations, respectively. However, in order to afford the shipping public the most effective and efficient service possible, applicant is impelled to extend the range of commodities for which it may offer common carrier service within its existing service territory to general commodities.

The service which the applicant presently provides, and has provided in the past, is clearly responsive to the needs of the shipping public; because applicant has been requested to extend the scope of commodity coverage within its certificated operation, the granting of the application will be in the public interest.

The proposed service will be performed on a daily basis on weekdays, with on-call service available on Saturdays, Sundays and holidays.

Applicant participates in its own Local Freight Tariff and tariffs published by Pacific Motor Tariff Bureau, Inc. It proposes to establish rates and rules under the requested certificate in the tariffs to which it is presently a party.

Applicant's financial statements as of March 31, 1976, show assets of \$1,211,561 and liabilities of \$971,291. The application lists a substantial fleet of highway equipment available for the proposed service.

Copies of the application and its amendment have 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 of May 27, 1976. Notice to the filing of the application and its amendment with this Commission appeared in the Commission's Daily Calendars of May 6 and June 30, 1976. A protest to the application was withdrawn by letter of June 25, 1976. No other protests to the application have been received.

The requested authority would be a logical extension of the applicant's existing certificated service. It would enable the applicant to better fulfill the needs of its intrastate shippers and to be responsive to requests for transportation of general commodities in interstate and foreign commerce in the area involved.

After consideration the Commission finds:

1. Applicant operates as a highway common carrier in the area covered by the application.
2. Under its present certificate, applicant has been transporting intrastate, interstate and foreign commerce for specific commodities in the area subject to the application and has received requests to handle general commodities.
3. Applicant has the experience, equipment and financial resources to initiate and maintain the service authorized herein.
4. There exists a need for applicant's service in intrastate and interstate and foreign commerce within the area referred to in the application.
5. 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

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.

It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The authority granted herein shall be incorporated in an in-lieu certificate, as set forth in Appendix A hereof. The authority granted does not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

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 Dreisbach Export Packing Co., Inc., a California corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and within the area set forth in Appendix A, attached hereto and made a part hereof.

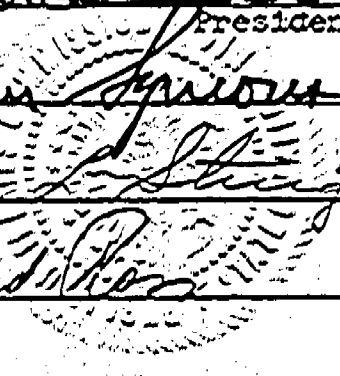
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authorities.

- (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 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file or amend 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 to 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 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 April 30 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 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision 83638 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2 (b).

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

Dated at San Francisco, California, this 3rd, day of August, 1976.

  
William J. Lyons President  
James L. Stanger  
Leonard R. Ross  
Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

Dreisbach Export Packing Co., Inc., 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:

Between all points and places in the San Francisco Territory, as described in Note A, and points within 25 statute miles thereof.

Except that, pursuant to the authority herein requested, the following shall not be transported:

- A. 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).
- B. 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.
- C. 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.
- D. 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.

Issued by California Public Utilities Commission.

Decision 86201, Application 56462.

- E. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks and trailers.
- F. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- G. Logs.
- H. Articles of extraordinary value.
- I. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
- J. Wine or wine products originating at or destined to points in Napa County or points within ten (10) statute miles thereof.

RESTRICTION:

Whenever Dreisbach Export Packing Co., Inc., engages other carriers for the transportation of property of Ronald T. Dreisbach and/or Dreisbach Box & Lumber Co., and/or Dreisbach Cold Storage Co., Inc., and/or Dreisbach Export Packing Co., Inc., or customers or suppliers of said individual, company or corporations, Dreisbach Export Packing Co., Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Dreisbach Export Packing Co., Inc., 's tariffs on file with this Commission.

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.

Issued by California Public Utilities Commission.

Decision 86201, Application 56462.



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 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.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 86201, Application 56462.