

Decision SC 01 029

JAN 5 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BAYSIDE EXPRESS, INC., a California)
corporation, to acquire from BAY-SAC)
EXPRESS, INC., a California)
corporation, a Certificate of Public)
Convenience and Necessity.)

Application 83-01-48
(Filed January 24, 1983)

O P I N I O N

This is an application in which Bay-Sac Express, Inc. (Bay-Sac), a California corporation, seeks authority to sell and transfer its highway common carrier operating rights to Bayside Express, Inc. (Bayside), a California corporation.

Notice of the filing of the application appeared in the Commission's Daily Calendar on January 26, 1983. There are no protests.

At the direction of the assigned administrative law judge, on April 28, 1983 applicants submitted a supplement to Exhibit C attached to the application which is designated as Exhibit 1 in this proceeding. Further information designated as Exhibit 2 was filed on July 11, 1983.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Bay-Sac holds a certificate of public convenience and necessity to operate as a highway common carrier issued by this Commission in Decision 92195 (Application 59714) entered on September 3, 1980. The certificate is the subject of a coextensive Certificate of Registration issued by the Interstate Commerce Commission.

3. Bay-Sac's certificate authorizes the transportation of general commodities with limited exceptions, between the following points, including intermediate points within 20 miles of specified highways:

- a. All points in the San Francisco Territory.
- b. San Francisco Territory and Santa Rosa via U.S. Highway 101.
- c. Santa Rosa and Napa via State Highway 12.
- d. Santa Rosa and Calistoga via various unnumbered county roads.
- e. Calistoga and Vallejo via State Highway 29.
- f. San Francisco and Auburn via Interstate Highway 80.
- g. Yuba City and Fresno via State Highway 99.
- h. San Francisco Territory and Stockton via Interstate Highways 580, 205, and 5.
- i. San Francisco Territory and Paso Robles via U.S. Highway 101.
- j. Monterey and Salinas via State Highway 68.
- k. San Francisco Territory and Santa Cruz via State Highway 17.
- l. Richmond and Stockton via State Highway 4.
- m. Sunol and Martinez via Interstate Highway 680.
- n. Sacramento and Placerville via U.S. Highway 50.
- o. Nevada City and Jackson via State Highway 49.
- p. Gilroy and the junction with State Highway 99 near Califa, via State Highway 152.

4. Centrum Resources (Centrum) is a California corporation.

The officers and directors of Centrum are as follows:

Officers

C.E.O.	Gerald W. Sweeney
President	Judith L. Williams
Vice President	Ralph G. Page
Secretary	Gerald W. Sweeney
Treasurer/C.F.O.	Ralph Page

Board of Directors

Chairman	Gerald W. Sweeney
Director	Ralph G. Page
Director	Steven L. Pease

Centrum caused the incorporation of Bayside prior to the filing of this application and owns all of Bayside's outstanding stock.

Centrum also owns all the outstanding stock of Alcal Delivery, Inc., (T-122,190) a highway common carrier subject to the jurisdiction of this Commission and the Interstate Commerce Commission (ICC).

5. Bayside is principally managed by Gerald Sweeney and Ralph Page, each of whom has been engaged in the transportation business for six years and is familiar with the operational and safety requirements of such business. Bayside's personnel include former employees of Bay-Sac. The officers and directors of Bayside are as follows:

Officers

C.E.O.	Ralph Page
President	Gerald Sweeney
Vice President	Judith L. Williams
Secretary	Judith L. Williams
Treasurer/C.F.O.	Ralph Page

Board of Directors

Chairman	Gerald W. Sweeney
Director	Ralph G. Page
Director	Judith L. Williams

6. Bayside has assets of \$10,000 resulting from the sale of stock to Centrum.

7. Bay-Sac was in a deteriorating financial situation. In August 1982, Centrum and Bayside agreed to purchase all of the assets

and operating authority of Bay-Sac (including operating authority) for \$36,433. The purchase price was allocated as follows:

Vehicles	\$31,433
Miscellaneous Personal Property	3,500
Operating Authority	<u>1,500</u>
Total Purchase Price	36,433

Bayside also agreed to enter into an employment contract with Peter C. Burnside, Bay-Sac's vice president and chief executive officer.

8. Bayside has the ability, including financial ability, to conduct the proposed operations.

9. The transfer of operating rights from Bay-Sac to Bayside would not be adverse to the public interest.

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

11. The following order has no reasonably foreseeable impact on the energy efficiency of highway carriers.

12. The operating rights authorized to be transferred should be restated in a new certificate of public convenience and necessity.

13. The parties applied to the ICC for authority to transfer Bay-Sac's interstate operating rights to Bayside. In MC-FC-80038 the ICC authorized Bayside to assume temporary control of Bay-Sac's interstate operations and conduct operations. Bay-Sac has temporarily discontinued intrastate operations pending the disposition of this application. In the light of these circumstances the ensuing order should be effective on the date it is issued.

Conclusion of Law

Bay-Sac should be authorized to transfer its highway common carrier operating rights to Bayside.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Bay-Sac Express, Inc. (seller) may sell and transfer the operative rights and property specified in the application to Bayside Express, Inc. (purchaser). This authority shall expire if not exercised by July 2, 1984, or within such additional time as the Commission may authorize. ✓

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 102 and 130. If applicant elects to engage subhaulers, applicant shall have the required bond on file, and applicant shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Bayside Express, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points and over the routes listed in Appendix A.

4. The certificate of public convenience and necessity granted by Decision 92195 is revoked on the effective date of the tariffs.

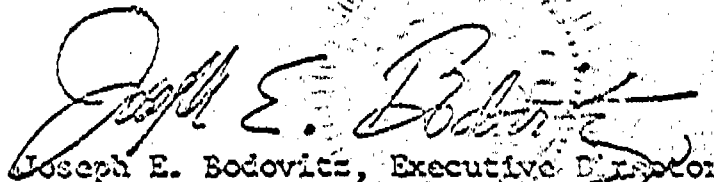
This order is effective today.

Dated JAN 5 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

Bayside Express 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 Public Utilities Code Section 213 for the transportation of general commodities as follows:

Between the following points, serving all intermediate points on or within twenty (20) statute miles of the highway:

1. All points in San Francisco Territory as described in Note A hereof.
2. San Francisco Territory as described in Note A hereof and Santa Rosa via U.S. Highway 101.
3. Santa Rosa and Napa via State Highway 12.
4. Santa Rosa and Calistoga via various unnumbered county roads.
5. Calistoga and Vallejo via State Highway 29.
6. San Francisco and Auburn via Interstate Highway 80.
7. Yuba City and Fresno via State Highway 99.
8. San Francisco Territory as described in Note A hereof, and Stockton via Interstate Highways 580, 205 and 5.
9. San Francisco Territory as described in Note A hereof and Paso Robles via U.S. Highway 101.

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Decision 84 01 039, Application 83-01-48.

10. Monterey and Salinas via State Highway 68.
11. San Francisco Territory as described in Note A hereof, and Santa Cruz via State Highway 17.
12. Richmond and Stockton via State Highway 4.
13. Sunol and Martinez via Interstate Highway 680.
14. Sacramento and Placerville via U.S. Highway 50.
15. Nevada City and Jackson via State Highway 49.
16. Gilroy and the junction with State Highway 99 near Califa, via State Highway 152.

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 services.

Except that under the authority 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, briefcases, 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).

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Decision 84 C1 039, Application 83-01-48.

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 semiplastic 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.

Issued by California Public Utilities Commission.

Decision 84 C2 039, Application 83-01-48.

Appendix A

BAYSIDE EXPRESS, INC. Original Page 4
(a California corporation)

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. Fresh fruits, nuts, vegetables and unprocessed agricultural commodities.
13. Transportation of any commodity, the transportation or handling of which because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, streets, in any motor vehicle or combination of vehicles.
14. Commodities when transported in ocean or sea-van containers.

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Decision 84 02 039, Application 83-01-48.

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; easterly along that 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 Company right-of-way to the Campbell-Los Gatos city limits; easterly along the city limits and their prolongation 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 its prolongation 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 the 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 the waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)

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Decision 84 01 039, Application 83-01-48.

O R D E R

IT IS ORDERED that:

1. Bay-Sac Express, Inc. (seller) may sell and transfer the operative rights and property specified in the application to Bayside Express, Inc. (purchaser). This authority shall expire if not exercised by ~~December 31, 1983~~ ^{March 2, 1984}, or within such additional time as the Commission may authorize.

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 123, and 147, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 102 and 130. If applicant elects to engage subhaulers, applicant shall have the required bond on file, and applicant shall engage only highway carriers who hold appropriate operating authority granted by this Commission.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Bayside Express, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points and over the routes listed in Appendix A.