

ORIGINAL

Decision No. 87443

June 7, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of ALTA FREIGHT & TRANSFER, INC.)
 for authority to sell its operat-)
 ing authority as a highway common)
 carrier, and of;)

Application No. 57068
 (Filed February 11, 1977)

APPLEGATE DRAYAGE COMPANY for)
 authority to purchase the operat-)
 ing authority as a highway common)
 carrier held by ALTA FREIGHT)
 & TRANSFER, INC.)

O P I N I O N

Alta Freight & Transfer, Inc., a California corporation, requests authority to lease and thereafter sell and transfer a certificate of public convenience and necessity to operate as a highway common carrier to Applegate Drayage Company, a California corporation, who also holds certificated highway common carrier authority from this Commission and the Interstate Commerce Commission.

The seller's certificate was granted pursuant to Decision 60121 dated May 17, 1960 in Application 41811 and authorizes the transportation of general commodities between all points on and within three statute miles of eleven routes located in an area bounded by Sacramento-Woodland on the north and Salinas-Manteca on the south. The purchaser's certificate was granted pursuant to Decision 86009 dated June 29, 1976 in Application 55184. It authorizes the transportation of general commodities on and within ten miles of nineteen routes located in an area generally north of Interstate Highway 80 between Davis and the California-Nevada border and east of Interstate Highway 5 between Sacramento and Red Bluff, subject to certain restrictions as to territory and commodities.

The sale also includes the transfer of the seller's corresponding Interstate Certificate of Registration. Pursuant to Section 5 of the Interstate Commerce Act, the entire transaction is subject to the exclusive jurisdiction of the Interstate Commerce Commission except to the extent that buyer must file a copy of the State Commission's order transferring the seller's state certificate which supports the Interstate Certificate of Registration. On March 1, 1977 the ICC granted the parties authority to enter into a temporary lease arrangement whereby applicant purchaser will conduct operations pending a final order of the ICC on the transfer portion of the application. The ICC authorized monthly rental consideration not to exceed \$1.00 per month. The purchase price of the certificate, including the intrastate authority, is \$75,000, payable with \$40,000 on approval of the sale and transfer by this Commission and the Interstate Commerce Commission plus \$1,000 per month thereafter for thirty-five consecutive months.

Applicants request authority of this Commission to execute the lease agreement pending a final order of the ICC.

Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which requires wide distribution of the application. Notice of the application was listed in the Commission's Daily Calendar of February 15, 1977. No protests to the application have been received. The applicants further request that the authority for the temporary lease of the operating rights be effective immediately.

After consideration the Commission finds that the proposed lease and transfer would not be adverse to the California public interest. A public hearing is not necessary.

The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.

Because of the urgency affecting the application, the authority to enter into the proposed lease should be effective immediately.

The description of the routes of the authority granted reflects the renumbering of certain highways and roads and does not in any way result in an expansion of the authority presently held by these carriers individually.

The order which follows will provide for, in the event the transfer is approved by the Interstate Commerce Commission, the revocation of the certificates granted by Decision 60121 dated May 17, 1960 in Application 41811 and Decision 86009 dated June 29, 1976 in Application 55184 and the issuance of an in-lieu certificate in appendix form to Applegate Drayage Company.

Applegate Drayage Company 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 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 cancelled 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 to be leased and transferred.

O R D E R

1. On or before September 1, 1977, Alta Freight & Transfer, Inc., a California corporation, may lease the operative rights issued by this Commission and referred to in the application to Applegate Drayage Company, a California corporation.

2. Upon approval by the Interstate Commerce Commission and effective therewith, Alta Freight & Transfer, Inc. may sell and transfer the operative rights referred to in the application to Applegate Drayage Company.

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

4. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred, to show that it has adopted or established, as its 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 80-Series. Failure to comply with the provisions of General Order 80-Series may result in a cancellation of the operating authority granted by this decision.

5. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

6. In the event the transfer authorized in paragraph 2 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 4, a certificate of public convenience and necessity is granted to Applegate Drayage Company authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

7. The certificates of public convenience and necessity granted by Decisions 60121 and 86009 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

8. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

9. Purchaser 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.

10. Purchaser 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.

11. Pending final order of the Interstate Commerce Commission in this application to transfer, Applegate Drayage Company may lease from Alta Freight & Transfer, Inc., the operating authority granted by Decision 60121 according to the terms and conditions as set forth in Appendix A of the application.

12. Within 30 days after the effective date hereof and on not less than one day's notice to the Commission and the public, applicant lessee shall amend the tariffs presently on file with this Commission in the name of the applicant lessor to reflect the lease authority granted by Ordering Paragraph 1 hereof.

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The effective date of this order is the date hereof.

Dated at San Francisco, California, this 7th day
of JUNE, 1977.

Robert Bateman

President

William Sproule Jr.

Vernon L. Sturgeon

Richard D. Chalk

Commissioners

Applegate Drayage Company, 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:

- A. Between all points and places on or within 10 statute miles of the following routes:
1. Interstate Highway 80, State Highway 113 and Interstate Highway 5 between Sacramento and Redding.
 2. State Highway 16 between Woodland and Sacramento.
 3. State Highway 113 between Davis and Yuba City.
 4. State Highway 99 between Sacramento and Yuba City.
 5. State Highway 99 from Yuba City to Red Bluff.
 6. State Highway 32 between Orland and Chico.
 7. State Highway 162 between Willows and Glenn.
 8. State Highway 45 between Hamilton City and Colusa.
 9. State Highway 162 between its intersection with State Highway 45 (Cordora) and its intersection with State Highway 99.
 10. State Highway 20 between Williams and Yuba City.
- B. The authority described in paragraph A above is subject to the following restrictions:
1. State Highway 99 between Sacramento and Yuba City shall be traversed for operating convenience only. Service to intermediate points is not authorized.

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2. Service is not authorized to any off route points within 10 statute miles east of State Highway 99 between Yuba City and the intersection with Durham Highway.
- C. Between all points and places on and within 10 statute miles of the following routes:
1. Interstate 80 between Sacramento and Roseville;
 2. State Highway 65 between Roseville and Marysville;
 3. State Highway 20 between Marysville and Yuba City;
 4. State Highway 70 between Marysville and its intersection with U.S. Highway 395 (restricted against service to off route points west of State Highway 70 between Marysville and Oroville);
 5. State Highway 89 at the point of intersection with State Highway 70 and Greenville and unnumbered highways diverging from State Highway 89 at Greenville, this being in the nature of a loop operation; returning over the same regular routes in the reverse direction;
 6. Between the intersection of State Highway 70 and U.S. Highway 395 and Herlong via U.S. Highway 395; thence via unnumbered state or county road to Herlong and the Sierra Ordnance Depot;
 7. U.S. Highway 395 at Herlong Junction to the junction of U.S. Highway 395 and State Highway 36, thence via State Highway 36 to its junction with State Highway 89, thence via State Highway 89 to Greenville;
 8. State Highway 147 between its junction with State Highway 36 and State Highway 89; and
 9. State Highway 49 between North San Juan and its intersection with State Highway 70 at Vinton (restricted against service to off-route points south of North San Juan).

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- D. Between all points on and within three statute miles of the following routes:
1. U.S. Highway 101 and State Highway 82 between San Francisco and Salinas inclusive, with service to off -route points of Watsonville and Hollister.
 2. State Highway 17 between Oakland and Los Gatos inclusive.
 3. Between Oakland and Saratoga, inclusive, via McArthur Boulevard to its junction with Interstate Highway 580 thence via Interstate Highway 580 to its junction with State Highway 238 in the City of Hayward; thence via State Highway 238 to its junction with State Highway 237 (Alviso-Milpitas Road); thence via State Highway 237 to its junction with Matilda Avenue north of the city of Sunnyvale, thence via Matilda Avenue to its junction with Saratoga-Sunnyvale Road; thence via Saratoga - Sunnyvale Road to Saratoga.
 4. Interstate Highway 680 between its junction with State Highway 4 near the unincorporated community of Pacheco and Mission San Jose, inclusive.
 5. Between San Francisco and Sacramento, inclusive, via Interstate Highway 80 to its junction with Interstate Highway 580 in the City of Oakland; thence via Interstate Highway 580 to its junction with Interstate Highway 205 west of the City of Tracy, thence via Interstate Highway 205 to its junction with Interstate Highway 5 near the unincorporated community of Banta; thence via Interstate Highway 5 to its junction with Temporary Interstate Highway 5 in the City of Stockton with service to the off route point of Manteca; thence via Temporary Interstate Highway 5 to Sacramento.
 6. Between Oakland and Sacramento inclusive, via State Highway 24 to its junction with Interstate Highway 680 near the City of Concord; thence via Interstate Highway 680 to its junction with State Highway 4 near the unincorporated community of Pacheco, thence via State Highway 4 to its junction with State Highway 160 near the City of Antioch; thence via State Highway 160 to Sacramento.

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7. Interstate Highway 80 between San Francisco and Sacramento inclusive with service to the off-route points of Winters, Woodland and Travis Air Force Base.
8. Between all points and places within ten (10) statute miles of the City of Stockton via all routes.
9. Between all points and places within fifteen (15) statute miles of the City of Sacramento via all routes.

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.

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,

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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.
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. Fresh fruits and vegetables (not cold pack nor frozen).

(END OF APPENDIX A)

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