

Decision No. 88569 MAR 7 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BALDWIN TRUCKING, INC., a cor-)
poration, to sell, and of O.K.)
TRUCKING CO., a corporation, to)
purchase, a Certificate of Public)
Convenience and Necessity for the)
transportation of general commod-)
ities, between points in San)
Francisco Territory pursuant to)
Sections 851-853 of the California)
Public Utilities Code.)

Application No. 57545
(Filed August 31, 1977
Amended January 17, 1978)

O P I N I O N

Baldwin Trucking, Inc., a California corporation (seller) requests authority to sell and transfer and O.K. Trucking Co., (purchaser), a California corporation, seeks authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision 83380 dated September 4, 1974 in Application 54872 and authorizes the transportation of general commodities, with the usual exclusions between all points and places in the San Francisco Territory. The certificate is the subject of a co-extensive Certificate of Registration for interstate and foreign commerce issued by the Interstate Commerce Commission in Docket No. MC 135779.

Purchaser is the holder of seven highway common carrier certificates authorizing variously the transportation of canned goods, tin plate, empty cans, fresh and dried fruit, and fresh vegetables, applying generally between points in the San Francisco Bay Area and points in Central and Southern California. They were granted by the Commission many years ago. Two of these certificates are the subject of coextensive certificates of registration issued by the Interstate Commerce Commission in Docket MC 19552 (Subs 9 and 10).

Pursuant to the Purchase Agreement entered into by the parties on July 15, 1977, the sale will include only the certificate granted to the seller by Decision 83380 and the co-extensive certificate of

registration. No other asset is involved in this sale. The purchase price is \$5,000 payable in cash upon consummation of the transaction. Of this amount, the sum of \$2,500 will be held in escrow pending consummation.

The balance sheet of the purchaser, filed as Exhibit B of the application shows a net worth of \$49,614. It is proposed that the purchaser continue the certificated operations of the seller, having adequate facilities and experience to provide a satisfactory service as a highway common carrier of general commodities.

Seller participates in Pacific Coast Tariff Bureau, Inc., agent, tariff publications. Purchaser proposes to adopt said publications.

Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which require wide dissemination of the application. Notice of the application was listed in the Commission's Daily Calendar of September 1, 1977. No protests to the application have been received.

After consideration the Commission finds:

1. The proposed transfer would not be adverse to the public interest.
2. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.

The Commission concludes that the application should be granted. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the highway common carrier certificate presently held by Baldwin Trucking Company and the issuance of an in lieu certificate in appendix form to O.K. Trucking Co. which will include the certificate to be transferred and the seven other certificates presently held by O.K. Trucking Co. The restatement of the operating authorities, herein provided for, neither broadens nor lessens the scope of the separate operating authorities heretofore granted.

Purchaser 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 modified or cancelled at any time by the State, which is not in any respect limited as the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before November 1, 1978 Baldwin Trucking Inc., a California corporation may sell and transfer the operating rights referred to in the application to O.K. Trucking Co. a California corporation. This authorization shall expire if not exercised by November 1, 1978, or within such additional time as may be authorized by the Commission.
2. 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.
3. 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' 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.
4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to O.K. Trucking Co., 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 over the routes set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall be in lieu of and supersede all of the highway common carrier certificates granted by the following decisions which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

<u>Decision No.</u>	<u>Date</u>	<u>Application No.</u>
9398	8/23/21	6730
10281	4/5/22	7613
15255	8/4/25	11149
16491	4/16/26	11174
44528	7/11/50	30943
53623	8/28/56	36015
83380	9/4/74	54872
84937	9/30/75	55144

6. 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.

7. 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.

8. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

A. 57545 - gjw

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

Dated at San Francisco; California, this 7th day of MARCH, 1978.

Robert B. ...
President
William ...
... ..
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... ..
Commissioners

O. K. Trucking Co. 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. General Commodities between all points and places in the San Francisco Territory as described in Note A hereof.

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 salesman'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.

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Decision 88569, Application 57545.

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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Fresh Fruits and Vegetables except as follows:
 - a. Green Fruits, Vegetables and Farm Produce between Los Gatos and Oakland serving as intermediate points the communities of Cupertino, Saratoga, Mountain View, Sunnyvale, Santa Clara, San Jose, Campbell, Berryessa and Milpitas: Empty Carriers in which Fruits, Vegetables and Farm Produce have been or are to be transported; shipments originating at the ranches located at points off the State Highway between San Jose and Oakland within a zone not in excess of two (2) statute miles distance from said highway. (Intrastate only)
 - b. Fruit and Produce only between East San Jose, Warm Springs, Mission San Jose, Niles, Irvington, Centerville, Alvarado, Decoto, Mt. Eden, Hayward, San Lorenzo, San Leandro, Elmhurst and Oakland during the fruit and vegetable season only of each year. (Intrastate only)

Issued by California Public Utilities Commission.

Decision 88569, Application 57545.

- c. Fruits and Vegetables only between Oakland and San Francisco, said service to be as a part of and an extension to Applicant's present authorized operations between East San Jose and Oakland.
(Intrastate only)

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.

- II. Apples between Santa Cruz, Soquel, Aptos and Watsonville and Vegetables between Carmel, Monterey and Castroville, and including two (2) statute miles radius from each point, on the one hand, and Oakland, on the other hand during the fruit season of each year; Fruits and Vegetables between Alviso, Mayfield, Menlo Park, Atherton, Redwood City and Belmont, including two miles radius from each point, on the one hand, and Oakland, on the other hand. Fruits and Vegetables between Winters, Vacaville, Fairfield and Cordelia, including two miles radius from each point, on the one hand, and Oakland, on the other hand, and between Knightsen, Oakley, Antioch and Concord, including two (2) statute miles radius from each point, on the one hand, and Oakland, on the other hand, during fruit and vegetable season only of each year. (Intrastate only)
- III. Fresh Fruits and Fresh Vegetables of all kinds, other than coldpack or frozen, and empty containers therefor, upon an "on-call" basis between San Francisco, Richmond, El Cerrito, Albany, Berkeley, Oakland, Alameda, San Leandro and Hayward, on the one hand, and on the other hand, points and places in central and southern California as follows:
- A. On State Highway 99 from Fresno to its junction with Interstate Highway 5 at Wheeler Ridge, thence via Interstate Highway 5 to its junction with Interstate Highway 10 in the City of Los Angeles, thence via Interstate Highway 10 to its junction with State Highway 86 near Indio, thence via State Highway 86 to its junction with State Highway 111 near Heber, thence via State Highway 111 to the California-Mexican Border.

Issued by California Public Utilities Commission.

Decision 88569, Application 57545.

- B. On U.S. Highway 101 from Santa Maria to its junction with Interstate Highway 5 in the City of Los Angeles, thence via Interstate Highway 5 to the California-Mexican Border.
 - C. On State Highway 1 from its intersection with U.S. Highway 101 near El Rio to its intersection with Interstate Highway 5 at Capistrano Beach.
 - D. On Interstate Highway 10 from the City of Los Angeles to the City of Blythe.
 - E. Includes the right to serve all points within twenty (20) statute miles of the highways designated in A, B, C, and D above. Does not include the right to provide intermediate or local service.
- IV. Canned Goods, and Other Articles; also Food, Baby, Canned or Preserved, other than frozen, consisting only of strained and chopped foods in hermetically sealed containers: Caps, can; Cartons, fibreboard; Salt; Steel, bars, plates or sheets; Tires, pneumatic.
- A. Between:
 - 1. Oakland and San Leandro, on the one hand, and Modesto, Los Angeles, South Gate and Van Nuys, on the other hand.
 - 2. Newark and Los Angeles.
 - 3. Oakland and Fontana.
 - B. The authority shown above does not include the right to render service from, to or between intermediate points.
- V.
- 1. Canned goods, in shipments of 10,000 pounds or more, from Sacramento, Stockton, Yuba City, Marysville and Kingsburg to ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda.
 - 2. Tinsplate, in shipments of 40,000 pounds or more, from Pittsburg to ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda.

Issued by California Public Utilities Commission.

Decision 88569, Application 57545.

3. Cans (iron, steel or tin); Can Caps; and Fibreboard Cartons; in shipments of 10,000 pounds or more, from ports, docks and wharves located in San Francisco, Oakland, Richmond and Alameda to Sacramento, Stockton, Yuba City, Marysville and Kingsburg.
- A. RESTRICTIONS: The authority granted herein is restricted:
1. Against the transportation of commodities requiring the use of refrigeration or temperature control in specially designed and constructed refrigerator equipment.
 2. Against the transportation of commodities in cargo containers, except shipments in cargo containers originating at 4000 Yosemite Boulevard, Modesto; 16th and C Streets, Sacramento; B and Plumas Streets, Yuba City; Kern and Mission Streets, Kingsburg; and 202 North Filbert Street, Stockton.

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); 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

Issued by California Public Utilities Commission.

Decision 88569, Application 57545.

Issue

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

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Decision 88569, Application 57545.