

CAS/DLL

Decision No. 29792 DEC 19 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of )

PINO FREIGHTWAYS, INC., )

Application No. 58344  
(Filed September 8, 1978)

for a certificate of public )  
convenience and necessity autho- )  
rizing operations as a highway )  
common carrier. )

O P I N I O N

Pino Freightways, Inc., the applicant herein, seeks a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of general commodities, with the usual exceptions, between all points and places within the San Francisco Territory, including all points located within ten (10) statute miles of the boundary of said territory. Applicant is currently operating pursuant to a radial highway common carrier permit in File T-94,429. This permit authorizes the transportation of general commodities, with the usual exceptions, statewide within California.

Applicant intends to perform the proposed transportation service in both intrastate and interstate or foreign commerce wholly within the proposed area and, therefore, requests that this Commission also make a finding that public convenience and necessity require the proposed service in interstate and foreign commerce operations as well as in intrastate commerce in California.

In justification of the certificate authority sought herein, applicant declares that (a) it has been operating as a licensed for-hire motor carrier in San Francisco Territory and in the vicinity thereof since 1969; (b) since then the volume of freight which it transports has consistently increased due to the growing number of shippers that it serves as well as their increased

transportation needs; and (c) because of such traffic growth, the proposed service is needed to meet its customers' needs now as well as their future requirements. It alleges that it is ready, willing and able to accept the duties and responsibilities of a highway common carrier if the certificate it seeks is granted herein.

According to applicant, it proposes to provide a daily service Monday through Friday and, upon request, will provide service on Saturday and Sunday on intrastate, interstate and foreign commerce between all points in the proposed service area. Exhibit "D" attached to the application shows that applicant possesses a fleet of equipment which is suitable for its certificated operation. The rates which it proposes to publish and assess for the proposed service, applicant asserts, will be on the same level as those published in the Commission's own Minimum Rate Tariff 2 and other minimum rate tariffs where applicable.

Exhibit "C" attached to the application contains applicant's income statement for the calendar year 1977 which shows trucking income of \$114,857 less operating expenses of \$90,551 resulting in a net profit, before taxes, of \$24,306. Also attached thereto is applicant's balance sheet as of December 31, 1977 which lists its total assets as \$103,384 less liabilities of \$32,117 resulting in a net worth of \$71,267.

A printed notice of the filing of its application was served by applicant on September 13, 1978, via first-class mail, upon known competing carriers, as well as upon the California Trucking Association. Notice of the filing of the subject application also appeared in the Commission's Daily Calendar of September 11, 1978. No protest to the granting of the application has been received.

After consideration, the Commission finds that:

1. Applicant presently conducts for-hire trucking operations under a radial highway common carrier permit.

2. Applicant currently operates six power units and eight semitrailers, plus three dollies and other operating equipment in conducting its trucking operations.

3. Based on the evidence presented herein, applicant has demonstrated its financial and operational ability to perform the proposed transportation service.

4. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce, as proposed in the application, and also require that the 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.

On the basis of the foregoing findings, the Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The territorial description of the certificated authority granted herein reflects the current names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation.

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, these 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 Pino Freightways, Inc. authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of 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 hereof, applicant shall establish the service herein authorized and 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 service herein authorized.
- (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 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 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 thirty days after the date hereof.

Dated at San Francisco, California, this 19th day of DECEMBER, 1978.

Robert Bateman  
President  
William J. Quinn  
Vernon L. Spurgeon  
Richard D. Howell  
Clair J. DeLoach  
Commissioners

Pino Freightways, Inc., 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 in the San Francisco Territory, as described in Note A herein, including all points located within ten (10) statute miles of the boundary of said territory.
- B. 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.
- C. Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:
  1. Used household goods and personal effects 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.

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Decision 89700, Application 58344.

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.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Fresh fruits and vegetables.

## 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.

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Decision 80708; Application 58344.

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 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; southwestly 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.

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Decision \_\_\_\_\_, Application 58344.