

Decision No. 89828 JAN 4 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Thomas F. McGann and Kathleen)
M. McGann, dba T & K Expressways)
& Moving Company, for a certifi-)
cate of public convenience and)
necessity authorizing operations)
as a highway common carrier.)

Application No. 58307
(Filed August 22, 1978)
(Amended October 10, 1978)

O P I N I O N

Thomas F. McGann and Kathleen M. McGann, co-partners, doing business as T & K Expressways & Moving Company presently operate as a radial highway common carrier and a household goods carrier under permits issued by the Commission in File T-90,524. These permits authorize the transportation of general commodities and household goods between all points and places in the State of California.

Applicants hereby apply, pursuant to Sections 1063 and 1064 of the Public Utilities Code, for a certificate of public convenience and necessity as a highway common carrier of general commodities, with certain exclusions, between points in San Francisco Territory on the one hand, and on the other hand various routes located in the central part of California. Applicants also request that we find that the public convenience and necessity requires the requested service in interstate and foreign commerce. A copy of the application was furnished to the California Trucking Association and notice of filing of the application appeared in the Commission's Daily Calendar of August 23, 1978. Protests were received from two carriers. Said protests were withdrawn as a result of the amendment to the application.

A copy of the amended application has been filed with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act and the application was published in the Federal Register, issue of September 13, 1978.

The proposed service will be performed Monday through Friday and, if requested, on Saturday. Rates to be assessed will be on the same level as those contained in Minimum Rate Tariff 2 and other applicable minimum rate tariffs. Applicants' financial statements indicate a net worth of \$97,820 as of September 30, 1978 and a net profit of \$27,589 for the year 1978 to that date.

Applicants possess a substantial fleet of equipment suited for the proposed operations. If additional equipment is required the applicants have ample financial resources to provide the same.

Applicants indicate that they have experienced a steady growth in the number of shippers they serve together with a sustained increase in the frequency and regularity of their service. They have determined that they should seek a more appropriate authority for their present operations and one which will permit orderly growth in the future.

Findings

1. The applicants are fit, willing and able to provide the requested service.
2. Public convenience and necessity require that the applicants 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.
3. As the protestants have withdrawn their protests, a public hearing is not necessary.

Conclusion

The application, as amended, should be granted as set forth in the ensuing order.

Applicants are 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 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 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 Thomas F. McGann and Kathleen M. McGann, co-partners, doing business as T & K Expressways & Moving Company, authorizing them 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.

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

- (a) Within thirty days after the effective date of this order, applicants shall file a written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate they 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 No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicants shall establish the authorized service and amend or 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 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 No. 80-Series.
- (e) Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.
- (f) Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 4th day of JANUARY, 1979.

Robert B. ...
 President
Richard W. ...
Clair T. ...

Commissioners

Thomas F. McGann and Kathleen M. McGann, co-partners, doing business as T & K Expressways & Moving Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, are 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. Between points in San Francisco Territory as described in Note A hereof, on the one hand, and on the other hand points and places on and within 10 statute miles of the following routes:
 - a. Interstate Highway 80 between Oakland and Sacramento, inclusive.
 - b. State Highway 4 between its junction with Interstate Highway 80 and Stockton, inclusive.
 - c. State Highway 99 between Chico and Sacramento, inclusive.

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

Issued by California Public Utilities Commission.

Decision 89828, Application 58307.

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.
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. Fresh fruits and vegetables.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Commodities having an immediate prior or subsequent movement by air or freight forwarder.
12. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

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.

Issued by California Public Utilities Commission.

Decision 89828, Application 58307.

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 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.

Decision 89828, Application 58307.