

Decision No. 90185 APR 10 1979

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of BAY CITIES TRANSPORTATION)	
COMPANY, a corporation, for an)	Application No. 58335
order authorizing increases in)	(Filed August 31, 1978)
its rates and charges for the)	(Amended March 23, 1979)
transportation of petroleum and)	
petroleum products in bulk.)	

INTERIM OPINION AND ORDER

By this application, Bay Cities Transportation Company (BCTC), a corporation, requests authority to increase its rates and charges by 20 percent for the transportation of petroleum and petroleum products, in bulk, between points on San Francisco Bay and its tributaries. The first amendment to the application requests that an order be issued authorizing the substitution of Coastal Towing and Lighterage Corporation (CTL), as applicant and to increase its rates and charges by approximately 52 percent.

Applicant states that during the intervening period between August 31, 1978 and the date of this amended filing, BCTC and its bulk petroleum transportation division, United River Lines Division, have failed to enter into an effective collective bargaining agreement and have therefore been forced to discontinue operations in the movement of petroleum and petroleum products in bulk between points on the San Francisco Bay and its tributaries.

Applicant further states that on March 7, 1979, and pursuant to a collective bargaining agreement ratified on March 7, 1979 with the Inland Boatman's Union of the Pacific, the bulk petroleum and petroleum products transportation previously provided by BCTC was assumed by CTL, a newly formed corporation.

Applicant declares CTL and BCTC are both corporations within the Crowley Maritime Corporation family. All of the data submitted with Application No. 58335 in support of an increase in rates for BCTC is equally applicable to CTL except as that data requires updating as a result of the six and one-half month period

which has transpired since that application was filed. As pertinent, supporting data submitted with Application No. 58335 is hereby adopted by CTL insofar as it is relevant to operations conducted by this new corporation.

Applicant asserts that its proposed tariff is similar to BCTC Tariff No. 7-A, Cal. P.U.C. No. 21, under which BCTC operated, except that the rates have been increased to reflect increased costs in crew wages and related expenses, fuel, repair costs, payroll costs, vessel expense and other operating and administrative expenses. The last general rate increase published in Tariff No. 7-A was authorized by the Commission in Decision No. 84836 dated August 25, 1975, in Application No. 54957. In the three and one-half years since that Decision, the only rate increases in Tariff 7-A aggregate six and one-half percent to offset labor and labor related costs. These increases have only partially offset increased labor costs and no provision has been made to offset the major increases in other costs which have occurred during the three and one-half year period since August 25, 1975. Should CTL be required to continue operations at its current costs and without a rate increase, it would project an operating ratio of approximately 126% during 1979. Applicant has submitted a copy of a letter sent to the Council of Wage and Price Stability indicating that it intends to fully comply with the President's wage-price guidelines. The partial increase granted by this order would not place applicant in a profitable position and is therefore within the guidelines.

The revenue and expense data submitted by applicant indicates that there is an immediate need for rate relief; however, as to the level of the increased rates, the Commission is of the opinion that a hearing should be held to determine the reasonableness of applicant's request. Pending hearing, the Commission finds that a partial increase of twenty (20) percent in the form of a surcharge should be granted in connection with the rates and charges currently on file with the Commission in BCTC's Local Freight Tariff No. 7-A, Cal. P.U.C. No. 21.

A vessel carrier may not arbitrarily discontinue service to the public and abandon operations and the Commission admonishes Bay Cities Transportation Company and its parent company, Crowley Maritime Corporation, for their flagrant violation of the Public Utilities Code in this regard.

It appears that public convenience and necessity require the continuation of vessel carrier service to the public.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Bay Cities Transportation Company and the issuance of a certificate in appendix form to Coastal Towing and Lighterage Corporation.

Coastal Towing and Lighterage Corporation 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, 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.

Conclusions

1. Applicant's request to increase rates and charges should be granted to the extent set forth in the following order.

2. The proposed transfer of the vessel carrier certificate of public convenience and necessity from Bay Cities Transportation Company to Coastal Towing and Lighterage Corporation should be granted to the extent set forth in the following order.

IT IS ORDERED that:

1. Bay Cities Transportation Company is hereby authorized to publish a twenty (20) percent surcharge increase in its Local Freight Tariff No. 7-A, Cal. P.U.C. No. 21.

2. A public hearing shall be scheduled on this application as to the proper level of rates and charges at a date to be set.

3. Bay Cities Transportation Company may sell and transfer the operative rights referred to in the application to Coastal Towing and Lighterage Corporation. This authorization shall expire if not exercised by July 9, 1979, or within such additional time as may be authorized by the Commission.

4. 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.

5. 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 one day after the effective date of this order on not less than one day's 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 No. 117-Series. Failure to comply with the provisions of General Order No. 117-Series may result in a cancellation of the operating authority granted by this decision.

6. 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.

7. In the event the transfer authorized in paragraph 3 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Coastal Towing and Lighterage Corporation, a corporation, authorizing it to operate as a common carrier by vessel, as defined in Sections 211(b) and 238 of the Public Utilities Code, between the points set forth in Appendix A of this decision.

8. The certificate of public convenience and necessity granted by Decision No. 84893 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

9. Purchaser shall comply with the insurance requirements of the Commission's General Order No. 111-Series.

10. 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 March 31 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.

11. The authority granted in this order to transfer the vessel carrier certificate of public convenience and necessity shall become effective when Coastal Towing and Lighterage Corporation has paid the fee prescribed by Rule 45(d) of the Rules of

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Practice and Procedure which fee is \$75.00. In all other respects the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 10th day of APRIL, 1979.

John E. Bryson
President

William L. Thurman

Richard D. Howell

Walter J. ...

James M. ...
Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
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By [Signature]

Coastal Towing and Lighterage Corporation, by the order contained in the decision noted in the margin, is granted a certificate of public convenience and necessity to operate as a common carrier by vessel for the transportation of property between ports and points on San Francisco, San Pablo, and Suisun Bays, the Sacramento River, and on the San Joaquin River below and including Stockton, California, and their tributaries.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 90185, Application 58335.