

ORIGINAL

Decision No. 90387 JUN 5 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BILL RACKLEY TRUCKING,)
INCORPORATED, a corporation, for)
authority to acquire a certificate)
of public convenience and)
necessity as a highway common)
carrier from SENNA TRUCKING CO.,)
INC., a corporation.)

Application No. 58750
(Filed March 16, 1979)

O P I N I O N

Senna Trucking Co., Inc. requests authority to sell and transfer and Bill Rackley Trucking, Incorporated requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier. A copy of the application was served on the California Trucking Association and notice of the filing appeared in the Commission's Daily Calendar of Wednesday, March 21, 1979. No protests to the application have been received.

The certificate was granted by Decision No. 89068 dated July 7, 1976, in Application No. 56362 and authorizes the transportation of certain specific commodities between points in the San Francisco Territory and Los Angeles Territory. The certificate is the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC 111313 (Sub No. 1). The agreed selling price is \$14,500 payable in cash to the seller upon consummation of the transfer.

Applicant purchaser is presently conducting operations as a highway common carrier for the transportation of general commodities moving in both intrastate and interstate commerce as well as conducting operations as a permitted carrier. As of December 31, 1978, applicant purchaser indicated a net worth in the amount of \$513,413.

It is alleged that applicant seller has decided to discontinue all motor operations and that applicant purchaser will continue to serve the needs of those members of the shipping public having been previously served by seller.

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, in the event the transfer is completed, for the revocation of the certificate presently held by Senna Trucking Co., Inc. and the issuance of a certificate in appendix form to Bill Rackley Trucking, Incorporated.

Bill Rackley Trucking, Incorporated 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.

It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Applicants have requested that the tariff filings be made on five days' notice and that the order be made effective on the date of signing. No justification was given for such requests and they are therefore denied.

O R D E R

IT IS ORDERED that:

1. Senna Trucking Co., Inc. may sell and transfer the operative rights (and property) referred to in the application to Bill Rackley Trucking, Incorporated. This authorization shall expire if not exercised by May 1, 1980, 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 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 No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. 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.

5. 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 Bill Rackley Trucking, Incorporated, a 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 of this decision.

6. The certificates of public convenience and necessity granted by Decisions Nos. 86068 and 89009 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. 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 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.

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9. Purchaser shall comply with the requirements of the Commission's General Order No. 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.

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

Dated at San Francisco, California, this 5th day of JUNE, 1979.

John E. Byron
President
Donald L. Stinson
Charles D. Howard
Walter T. ...
Lawrence ...
Commissioners

Bill Rackley Trucking, Incorporated, 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. Shipments weighing 15,000 pounds or more, or shipments upon which freight charges have been computed at a weight of 15,000 pounds or more, subject to EXCEPTION shown below:
- B. Between all points and places in San Francisco Territory, as described in Note A hereof.
- C. Between all points and places on or within twenty (20) statute miles laterally of the following routes.
 1. Interstate Highway 80 between Sacramento and its junction with State Highway 17 near Albany.
 2. State Highway 17 between its junction with Interstate Highway 80, via the Richmond-San Rafael Bridge, and its junction with U.S. Highway 101.
 3. U.S. Highway 101 from Novato to San Francisco.
 4. State Highway 37 between its junctions with U.S. Highway 101, near Ignacio, and with Interstate Highway 80.
 5. State Highway 21 between its junction with Interstate Highway 80, near Cordelia, and with Interstate Highway 680, near Benicia.

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6. State Highway 12 between its junction with Interstate Highway 80, near Fairfield, and with State Highway 99, near Lodi.
7. Interstate Highway 680 between its junctions with Interstate Highway 80, near Vallejo, and with Calaveras Road, near Milpitas.
8. State Highway 24 between its junctions with Interstate Highway 680, near Walnut Creek, and Interstate Highway 80.
9. State Highway 4 between its junctions with Interstate Highway 680, near Concord, and with State Highway 99, near Stockton.
10. Interstate Highway 580 between its junctions with State Highway 17, near Emeryville, and with Interstate Highway 5, near the San Joaquin-Stanislaus County Line.
11. Interstate Highway 205 between its junction with Interstate Highway 580, near Mountain House, and with Interstate Highway 5, near Banta.
12. State Highway 84 between its junctions with Interstate Highway 580, near Springtown, and with Interstate Highway 680 at Scotts Corner.
13. State Highway 99 between Sacramento and Fresno.
14. State Highway 33 between its junction with Interstate Highway 5, at Lehman Road near the Defense Depot, Tracy, and Interstate Highway 5, near the San Luis Reservoir, and between its junctions with State Highway 152, near Los Banos, and with State Highway 198, at Oil Fields.

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15. State Highway 132 between its junctions with Interstate Highway 580, and with State Highway 99, near Modesto.
16. Interstate Highway 5 between Stockton and its junction with State Highway 41, near Kettleman City.
17. State Highway 140 between its junctions with State Highway 99, near Merced, and State Highway 33, at Gustine.
18. State Highway 152 between its junctions with State Highway 99, near Califa, and Interstate Highway 5, near the San Luis Reservoir.
19. State Highway 145 between its junction with State Highway 99, near Madera, and State Highway 180, near Kerman.
20. State Highway 180 between its junctions with State Highway 33, near Mendota, and State Highway 99, near Fresno.
21. State Highway 41 between its junctions with State Highway 99, at Fresno, and Interstate Highway 5, near Kettleman City.

EXCEPTION:

Shipments of the following commodities are subject to a minimum weight of 5,000 pounds and are not subject to Exclusions 10, 11 and 12 listed under Sub-paragraph D hereof:

1. Machinery
2. Lumber and lumber products
3. Insulators
4. Iron and steel products
5. Electrical equipment

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- D. 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, briefcases, 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.
 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.

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Appendix A

BILL RACKLEY TRUCKING, INCORPORATED
(a California corporation)

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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. Shipments having a prior or subsequent move by air.
 11. Shipments in ocean-going containers, and empty ocean-going containers; having a prior or subsequent movement by water.
 12. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
- E. COMMODITIES named below, between the San Francisco Territory as described in Note A and the Los Angeles Territory as described in Note B. ✓
1. BOILERS, FURNACES, RADIATORS, STOVES, RELATED ARTICLES OR PARTS NAMED, as described in Items Nos. 25400 to 27682.
 2. IRON OR STEEL, as described in Items Nos. 104000 to 107520.
 3. CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, as described in Items Nos. 50750 to 52620.
 4. ALUMINUM ARTICLES, as described in Items Nos. 13100 to 13812.
 5. BRASS, BRONZE AND COPPER, as described in Items Nos. 30100 to 31000.
 6. MACHINERY, as described in Items Nos. 114000 to 133454.

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7. MISCELLANEOUS, COMMODITIES, VIZ.:

Rubber, reclaimed
Rubber, crude
Scrap metal

Part E alone does not include the right to tender service to, from or between intermediate points.

The terms "Items", as used above, means the items so designated in National Motor Freight Classification A-8, F. G. Freud, Issuing Officer, on the issued date thereof, including Supplements 7, 9, 10 and 11 thereto.

F. LUMBER AND FOREST PRODUCTS:

1. Between all points in that part of California north of a line beginning at the Pacific Coast west of Carmel and extending through Carmel to Merced; thence, to the California-Nevada State Line through the junction of U.S. Highway 395 and State Highway 89, near Topaz.

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.

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

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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.

NOTE B

LOS ANGELES TERRITORY

The Los Angeles Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the City of San Fernando); thence southeasterly along State Highway 118 to and including the City of Pasadena; thence easterly along Foothill

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Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street; south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boulevard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

(END OF APPENDIX A)

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