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Decision No. 91391 MAR 4 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of D & R Transfer Co., Inc., a  
California corporation, for the  
extension of Certificate of  
Public Convenience and Necessity  
to operate as a highway common  
carrier for the transportation  
of property in intrastate and  
interstate and foreign commerce.

Application No. 59136  
(Filed September 12, 1979)

O P I N I O N

Applicant operates as a highway common carrier pursuant to a certificate of public convenience and necessity originally granted to Segourney V. Hurd by Decision No. 53647 dated August 28, 1956 in Application No. 36214. The certificate was acquired by applicant pursuant to Decision No. 67803 dated September 1, 1964 in Application No. 46745, which authorized the transfer of the certificate to the applicant herein. The certificate authorizes the transportation of certain specific commodities as set forth in the certificate between:

1. Stockton and Modesto and intermediate points via U.S. Highway 99 and
2. Stockton, on the one hand, and Tracy, on the other hand, including the off route of Banta via U.S. Highway 50.

Applicant is not authorized to serve intermediate points between Stockton and Tracy. This authority was registered with the Interstate Commerce Commission in that Commission's Docket No. MC-99900, Sub. No. 2 thereby authorizing operations in interstate and foreign commerce. Applicant also holds a radial highway common carrier permit.

Applicant here seeks additional highway common carrier authority for the transportation of general commodities with the usual exclusions in intrastate, interstate, and foreign commerce as follows:

- A. Between all points and places in San Francisco Territory and between all points within ten (10) statute miles of any point therein.
- B. Between all points on or within ten (10) statute miles of the following routes:
  1. Interstate Highway 80 between Oakland and Sacramento, inclusive;
  2. Interstate Highways 580, 205, and 5 between Oakland and Sacramento, inclusive;
  3. State Highway 4 between Interstate Highway 80 and Stockton, inclusive;
  4. Interstate Highway 5 between Tracy and its intersection with State Highway 140, inclusive;
  5. State Highway 140 between Interstate Highway 5 and Merced, inclusive;
  6. State Highway 132 between Interstate Highway 5 and Modesto, inclusive;
  7. State Highway 152 between State Highway 99 and Interstate Highway 5, inclusive;
  8. State Highway 99 between Fresno and North Sacramento, inclusive;
  9. State Highway 49 between Jackson and Sonora, inclusive;
  10. State Highway 88 between Jackson and Stockton, inclusive;
  11. State Highway 108 between Sonora and Pinecrest, inclusive;
  12. State Highway 120 between Sonora and Manteca, inclusive;
- C. Between all points and places described in Paragraph A, on the one hand, and all points and places described in Paragraph B, on the other hand.

The proposed transportation will be daily, Monday through Friday. Time in transit will be daily or overnight depending upon the time of requests for service are received.

Applicant is a party to Western Motor Tariff Bureau, Inc. for operations under its existing common carrier certificate. Applicant proposes to participate in the same tariffs for the transportation proposed herein. Applicant also proposes to participate in various other bureau tariffs publishing joint rates between points to be served in California, on the one hand, and points in other states, on the other hand, interchanging with carriers participating therein at the most convenient point of interchange to provide service.

Applicant has the following equipment: two tractors, two 27-foot van trailers, one 45-foot van trailer, one truck with a 21-foot van body, one truck with a 20-foot flatbed body, and one dolly.

As of December 31, 1978 applicant had assets totaling \$44,845 offset by liabilities of \$17,916, with a resultant equity of \$26,929. For the year 1978 operating revenues totaled \$255,909 offset by operating expenses of \$236,339 resulting in net revenue before taxes of \$19,570.

Applicant alleges that the certificate should be granted for the following reasons among others:

1. Applicant's current authority is a complex listing of specific commodities which, along with the limited area of its certificate, has severely inhibited applicant's growth and expansion. However valid the commodity listing may have been at the time of the original grant of authority, the shippers' product mix now includes many commodities not shown on this authority and it is extremely difficult for applicant to maintain a separation of its common and permitted authorities. This limitation places an undue burden upon applicant and members of the shipping public utilizing applicant's services.

2. Applicant presently serves the extended area proposed to be served herein under its radial highway common carrier permit but is unable to render the complete service which it offers to its customers in its present certificated area.

3. Applicant's regular customers frequently have occasion to make shipments which require split deliveries, where one or more components are to be delivered in the area which applicant proposes to be added to its certificate, and which presently cannot be included as part of a single split delivery shipment.

4. Applicant has received repeated requests for service by the members of the shipping public currently using its present service for additional certificated service into this area, and also for service in interstate commerce. While applicant can transport shipments, as separate shipments, to this area in intrastate commerce under the authority of its permits, it cannot do so in respect to the interstate shipments offered to it for transportation. Furthermore, the requests for this service are becoming more numerous and could possibly exceed both in number and regularity of movement the type of transportation that is considered permitted carriage. Applicant wishes to keep its operations in full compliance with this Commission's regulations and yet provide a total overall transportation service to its existing customers.

5. During the past several years there has been a substantial increase in population and industry in the points and places located in the extended area.

6. Applicant is informed and believes that there is a lack of the type of service it offers in the area sought to be served.

The application was served upon the California Trucking Association and notice of filing appeared in that association's publication (CalTrux) and in the Commission's Daily Calendar. Applicant also published notice in the Federal Register of its application for additional interstate and foreign operative rights.

There are no protests to the application.

Findings of Fact

1. Applicant operates as a highway common carrier in intrastate, interstate, and foreign commerce pursuant to Decision No. 67803 in Application No. 46745 of this Commission and by Docket No. MC-99900 (Sub. No. 2) of the Interstate Commerce Commission.

2. Applicant also operates as a radial highway common carrier and as a highway contract carrier pursuant to permits issued by this Commission.

3. Notice that this application was filed and that it seeks interstate rights was published in the Federal Register on October 11, 1979.

4. Applicant has the ability, including financial ability, to conduct the proposed operation.

5. 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 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 the order herein.

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

7. A public hearing is not necessary.

The Commission concludes that the application be granted as set forth in the following order.

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, 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 D & R Transfer Co., Inc., 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.

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

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it 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, applicant 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) 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.
- (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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of

public convenience and necessity granted by Decision No. 67803, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated MAR 4 1980, at San Francisco, California.

John E. Bryan  
President  
Thomas L. Stinson  
Robert W. Howell  
James M. Smith  
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.



D & R Transfer Co., Inc., 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 San Francisco Territory as described in Note A hereof, and between all points within ten (10) statute miles of any point therein.
- B. Between all points on or within ten (10) statute miles of the following routes:
  1. Interstate Highway 80 between Oakland and Sacramento, inclusive.
  2. Interstate Highways 580, 205 and 5 between Oakland and Sacramento, inclusive.
  3. State Highway 4 between its junction with Interstate Highway 80 near Pinole, and Stockton, inclusive.
  4. Interstate Highway 5 between Tracy and its intersection with State Highway 140, inclusive.
  5. State Highway 140 between its intersection with Interstate Highway 5 near Gustine and Merced, inclusive.
  6. State Highway 132 between its intersection with Interstate Highway 5 near Vernalis, and Modesto, inclusive.
  7. State Highway 152 between its intersection with Interstate Highway 5 near Los Banos and its intersection with State Highway 99 at Califa, inclusive.
  8. State Highway 99 between Fresno and North Sacramento, inclusive.

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9. State Highway 49 between Jackson and Sonora, inclusive.
  10. State Highway 88 between Jackson and Stockton, inclusive.
  11. State Highway 108 between Sonora and Pinecrest, inclusive.
  12. State Highway 120 between Sonora and Manteca, inclusive.
- C. Between all points and places described in Paragraph A hereof on the one hand, and all points and places described in Paragraph B, 1 through 12, inclusive, on the other hand.

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.

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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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.

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.

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## 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)

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