

SEP 16 1980

ORIGINAL

92259

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of J. D. Drayage Company, 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. 59637  
(Filed May 6, 1980)

O P I N I O N

By this application J. D. Drayage Company, a California corporation, seeks an extension of its intrastate and interstate and foreign commerce authority to include all points and places from the end of its present certificate near Madera southward to include Fresno. Said expanded authority is requested pursuant to the provisions of Sections 1063 and 1064 of the Public Utilities Code of the State of California and Title 49, United States Code, Section 10931(a). Applicant proposes to transport general commodities in the expanded area. Applicant also proposes to establish through routes and joint rates with connecting carriers at mutually convenient points of interchange.

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

Applicant is presently a party to Western Motor Tariff Bureau, Inc., agent, tariff publications as are necessary within the territory covered by applicant's present common carrier authority both as to intrastate, interstate, and foreign commerce operations. Applicant proposes to participate in the same tariffs for rates and charges for the extended area, and to participate in various other bureau tariffs publishing joint rates between the points to be served in California, on the one hand, and points in other states, on the other hand, interchanging with carriers participating therein.

Exhibit D attached to the application shows that applicant's operating equipment consists of twenty pickup and delivery trucks, thirteen tractors, twelve 24-foot vans, sixteen 27-foot vans, two 24-foot flatbed trailers, one 40-foot flatbed trailer, and twenty-six 26-foot vans.

The balance sheet, as of December 31, 1979, (Exhibit C to the application) shows that applicant's current ratio is approximately two to one, and that it had \$170,028 in retained earnings. The statement of income and expenses for the 12-month period ending December 31, 1979, shows a negative net carrier operating income of \$17,859.

Applicant alleges that the present and future public convenience and necessity require operations as a common carrier by motor vehicle in intrastate and interstate and foreign commerce in general commodities, subject to the usual exceptions, between all points and places presently served under its certificate and that territory in which it seeks an extension of its certificate. The following conditions are alleged to exist which justify the granting of the sought certificate:

1. Applicant has had many years of experience in the transportation of freight, serving the public in interstate and foreign commerce as well as intrastate.
2. Applicant's current authority ends at Merced, whereas just 50 miles south thereof lies the largest community and market center in the area, Fresno. This area is commercially a part of applicant's service area, and has undergone substantial growth. The California Department of Finance estimated the population gain in Fresno County from 1970 to 1979 as an increase of 72,047, an increase of 17.4 percent.
3. Applicant has received requests from many of its existing customers to transport shipments to Fresno, including shipments moving in interstate or foreign commerce. It creates a burden on those shippers to tender such shipments to other carriers. Congestion at these customers' loading and unloading facilities is increased and an additional expenditure of time and personnel is required to segregate freight and prepare shipping documents. This requirement has caused applicant to lose accounts to and from this area, resulting in lower load factors, thereby lowering efficiency and increasing costs.
4. Applicant submits that the request proposes a natural geographical extension to its existing authority so as to allow it to better serve the needs of its shippers in both intrastate and interstate commerce.

Applicant alleges that the implementation of SB 860 is not a bar to the granting of this application. Although applicant has applied for and received authority under Section 1063.5 of the Code, the requirements of a Section 1063.5 carrier are not the same as those under Section 1063. Such converted authority does not authorize operations in interstate or foreign commerce. Applicant desires to avail itself of the procedure open to it under Section 10931 of the Interstate Commerce Act and apply to this Commission for the dual findings of public convenience and necessity in interstate and intrastate and foreign commerce, in order that it may register any extension of its existing authority with the Interstate Commerce Commission.

It is alleged that the approval of this application will have no adverse effect on the environment, as it will improve applicant's load factors, thus improving the fuel efficiency of its operations.

Notice of the filing of this application was published in the Federal Register dated June 6, 1980 and in the Commission's Daily Calendar. No protests have been received.

Findings of Fact

1. A public hearing is not necessary.
2. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
3. 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 this decision.

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

5. The new certificate issued to applicant will not broaden or change the interstate or foreign commerce rights held by the carrier.

Conclusion of Law

The application should be granted as set forth in the ensuing order. The territorial description or routes of the authority granted reflect the names of the designated highways and roads and do not in any way exceed the geographic limits of the proposed operation as published in the Federal Register. The certificate presently held by applicant will be canceled and an in lieu certificate will be issued incorporating applicant's present operative authority and the authority granted herein.

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 J. D. Drayage Company, a California 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. 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. 82931 dated May 29, 1974 in Application No. 53716, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b).

3. 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 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 SEP 16 1980, at San Francisco, California.

John E. Guyson  
President  
Deborah L. Sturgeon  
Richard W. Howell  
Charles J. Pfeiffer  
Samuel M. Quinn  
Commissioners

J. D. Drayage Co., 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:

1. U.S. Highway 101 between Geyserville and Salinas, inclusive.
2. Interstate Highway 280 and State Highway 82 between San Francisco and San Jose, inclusive.
3. State Highways 9 and 85, between Los Gatos and Sunnyvale, inclusive.
4. State Highway 17 between Oakland and Santa Cruz, inclusive.
5. Interstate Highway 580 between Oakland and its junction with Interstate Highway 205 near Mountain House, thence via Interstate Highway 205 to its junction with Interstate Highway 5 near Banta, thence via Interstate Highway 5 to Sacramento, inclusive.
6. State Highway 238 between its junction with State Highway 17 at San Lorenzo and near Warm Springs, respectively.
7. State Highway 84 and Stanley Boulevard, between Pleasanton and Livermore.
8. Interstate Highway 680 between Fremont and Vallejo.
9. Interstate Highway 80 between San Francisco and Sacramento including all points within a radius of thirty (30) statute miles of Sacramento.
10. State Highway 1 between Santa Cruz and Carmel.

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11. State Highway 128 between Geyserville and its junction with State Highway 29 at Calistoga, thence via State Highway 29 to Vallejo.
12. State Highway 68 between Salinas and Monterey.
13. State Highway 156 between its junction with U.S. Highway 101 near San Juan Bautista and its junction with State Highway 152 near San Felipe.
14. State Highway 152 between Gilroy and its junction with State Highway 99 at Califa.
15. State Highway 59 between its junction with State Highway 152 near El Nido and Merced.
16. Interstate Highway 205 between its junction with Interstate Highway 580 near Mountain House and its junction with Interstate Highway 5 near Banta, thence via Interstate Highway 5 to its junction with State Highway 120 at Mossdale Wye, thence via State Highway 120 to Manteca.
17. Interstate Highway 5 between its junction with Hammer Lane, approximately seven (7) statute miles north of the junction of Interstate Highway 5 and State Highway 4, and its junction with State Highway 140 near Gustine.
18. State Highway 140 between its junction with Interstate Highway 5 near Gustine, and its junction with State Highway 99 at Merced.
19. State Highway 99 between Sacramento and Fresno.
20. Between all points and places in Contra Costa County.
21. Between all points and places set forth in Paragraphs 1 through 20, inclusive; and

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22. Between all points and places on or within five (5) statute miles laterally of the routes named in Paragraph 1 through 18 and thirty (30) statute miles laterally of the route named in Paragraph 19.
23. 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.

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.
9. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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.

(END OF APPENDIX A)

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