

ORIGINAL

Decision No. 92537 DEC 16 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MILMOE-MAXEY ENTERPRISES, INC.,)
doing business as MAXI TRANSPORTA-)
TION CO. for a certificate of public)
convenience and necessity to conduct)
operations as a petroleum irregular)
route carrier for the transportation)
of petroleum and petroleum products)
in tank trucks and tank trailers)
between all points in the State of)
California.)

Application No. 59978
(Filed September 30, 1980)

O P I N I O N

Milmoe-Maxey Enterprises, Inc., a California corporation, doing business as Maxi Transportation Co., (applicant) presently operates pursuant to a petroleum contract carrier permit issued to it by this Commission under File No. T-128,996. This permit authorizes it to transport petroleum and petroleum products in tank trucks and tank trailers between all points in the State of California.

Applicant has applied in this proceeding for a certificate of public convenience and necessity which, if granted, would authorize it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code between all points and places in the State of California.

Applicant proposes to provide the service herein requested Monday through Friday and Saturday on request. It is contemplated that such service will be same-day or overnight in character.

If the application is granted, applicant proposes to become a party to all Western Motor Tariff Bureau tariff publications as are necessary for the publication of rates to cover applicant's operating rights granted herein and will establish rates substantially in conformity with rates and charges published in aforementioned tariffs.

Applicant's balance sheet of June 30, 1980, filed as Exhibit 1 to the application, indicates a net worth of \$64,052. Based on this figure, it would appear that the applicant has sufficient financial resources to conduct the proposed operation as a certificated carrier.

Exhibit 2 of the application shows that applicant possesses a substantial fleet of tank truck and tank trailer equipment.

In justification for the certificated authority sought herein, applicant alleges that:

- (a) Applicant, and its predecessor partnership, has been engaged in the transportation of bulk petroleum and petroleum products for approximately two years.
- (b) Applicant has received and continues to receive numerous requests from shippers for transportation of petroleum products in tank equipment. Applicant feels that this circumstance justifies the substitution of its present contract authority to one of common carrier status.
- (c) The equipment, terminal facilities, and trucking operations which are necessary to conduct the proposed service will be substantially the same as those currently being used by applicant under its present permitted authority.

Applicant requests that the provisions of the Commission's Rules of Practice and Procedure, which require wide dissemination of the application, be waived. This relief is based upon the provisions of Rule 87 which provide for deviation from the rules in order to "secure just, speedy and inexpensive determination of the issues presented". A copy of the application was furnished to the California Trucking Association, 1240 Bayshore Highway, Burlingame, California. Notice of the filing of the application appeared in the Commission's Daily Calendar of October 3, 1980. No protests to the application have been received.

Findings of Fact

1. Applicant Milmoe-Maxey Enterprises, Inc. is currently conducting for-hire petroleum trucking operations under a statewide petroleum contract carrier permit issued by this Commission.
2. Applicant used currently operates 15 highway vehicles which will be used in the transportation service as proposed herein.
3. Based on the evidence presented herein, applicant has demonstrated its financial and operational capability to perform the **proposed operation.**
4. Public convenience and necessity require that applicant be authorized to engage in operations as a petroleum irregular route carrier as proposed in the application.

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

Conclusion of Law

The application should be granted as set forth in the ensuing order. A public hearing is not necessary.

Applicant is placed on notice that operating 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 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 Milmo-Maxey Enterprises, Inc. doing business as Maxi Transportation Co., a California corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between all points in the State of California 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 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 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 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.

This order shall become effective when Milmo-Maxey Enterprises, Inc., doing business as Maxi Transportation Co., in addition to all other requirements set forth in the foregoing order, has divested itself of the petroleum contract carrier permit issued to it in File T-128,996.

Dated DEC 16 1980, at San Francisco, California.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

John E. Bryson
President

Robert P. Howell

Clair J. DeLoach

Commissioners

Appendix A

MILMOE-MAXEY ENTERPRISES, INC.
(a California corporation)
doing business as
MAXI TRANSPORTATION CO.

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Milmoie-Maxey Enterprises, Inc., a California corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products, in bulk, in tank trucks or tank trailers between all points and places in the State of California, subject to the following restriction:

RESTRICTION:

Transportation of waste material under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 92537, Application 59978.