

ORIGINAL

Decision No. 93142 JUN 2 1981

TD-46

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of: COMMERCIAL TRANSFER, INC., for)
a certificate of public convenience)
and necessity to operate as a)
highway common carrier as defined)
by Section 213 of the California)
Public Utilities Code.)

Application No. 59669
(Filed May 16, 1980; amended
September 15, 1980 and
January 9, 1981)

O P I N I O N

Applicant Commercial Transfer, Inc. (Commercial) requests a certificate of public convenience and necessity to operate as a highway common carrier pursuant to Section 213 of the Public Utilities Code in intrastate, interstate, and foreign commerce between points and places in the State of California, except to, from, or between points in Del Norte, Siskiyou, Modoc, Lassen, Sierra, Nevada, Placer, El Dorado, Alpine, Mono, Inyo, Riverside, San Bernardino, and Imperial Counties in the transportation of general commodities with the usual exceptions. The original application was protested by two carriers but they withdrew their protest when the application was amended to its present form as recited above. The application was noticed in the Federal Register of October 8, 1980.

Service of the application was made on common carriers with whom the proposed operations were likely to be competitive and on the California Trucking Association.

The application shows that Commercial is actively engaged in certificated and permitted highway carrier operations in interstate and intrastate commerce. It holds permits from the Commission to operate as an agricultural carrier, highway contract carrier, dump truck carrier, and petroleum contract carrier. It operates as a highway common carrier pursuant to Section 1063.5 of the Public Utilities Code for the transportation of general commodities statewide, which authority was issued without a finding of public convenience and necessity pursuant to SB 860, Stat. 1977, Chap. 840. Commercial operates 33 tractors and 95 trailers, many of which will be used in the proposed operations. It has a terminal at Fresno and at Vernon. For the year ending December 31, 1979 it had freight revenues of \$3,429,000 and a net profit of \$95,000. On that date it had a net worth of \$312,400. Commercial states that it has experienced and qualified drivers in sufficient numbers to meet the requirements of the proposed service and that to the extent additional employees must be hired, Commercial stands ready to do so.

Inasmuch as this carrier already holds statewide authority under Section 1063.5 of the Public Utilities Code, we are not herein authorizing additional intrastate certificated authority.

Commercial contends that its Section 1063.5 certificate is insufficient to meet the present and future requirements of its customers. Such certificate does not allow Commercial to handle interstate shipments, and the future of such a certificate is uncertain because its scope may at some time in the future be restricted. Commercial contends that shippers not previously among its customer group have been attracted to its service with the prospect of a high quality comprehensive regular service which it can only render under the requested certificate.

Commercial proposes to subscribe to rates, rules, and regulations governing the proposed service published by Pacific Coast Tariff Bureau, which rates, rules, and regulations are generally on a level with the Commission's Transition Tariff No.2.

Findings of Fact

1. Commercial requests a certificate pursuant to Section 213 of the Public Utilities Code to operate in intrastate, interstate, and foreign commerce as more particularly set out above.
2. Commercial is currently engaged in a variety of trucking operations.
3. Commercial has a terminal at Fresno and at Vernon.
4. Commercial operates 33 tractors and 95 trailers, many of which can be used in the proposed operations.

5. The Section 1063.5 certificate presently held by Commercial does not permit it to offer the interstate and foreign commerce service requested by its shippers.

6. Commercial is financially fit and willing and able to conduct the proposed service.

7. Notice was given to interested parties through publication in the Federal Register of October 8, 1980 of the filing of the application and the desire of the applicant to engage in interstate and foreign operations within limits of the intrastate certificate.

8. A reasonable opportunity has been afforded interested parties to be heard with respect to both the intrastate and interstate aspects of the application.

9. Public convenience and necessity require that Commercial 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.

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

11. A public hearing is not necessary.

12. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.

Conclusion of Law

The application should be granted.

Commercial 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 Commercial Transfer, 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 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.

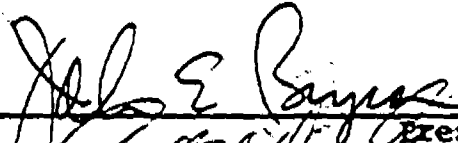
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

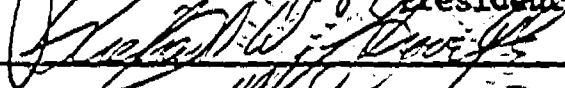
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order or 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.

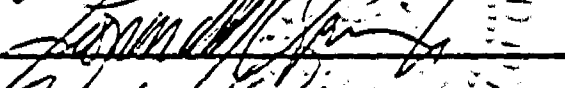
3. To the extent that the certificate authorized herein duplicates, in whole or in part, any other certificated authority held by Commercial Transfer, Inc. or granted to it in the future, such operative rights may not be separated to allow the sale or transfer of one or more of such duplicating rights or portion thereof and the retention of another certificated right to perform the same service.


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

Dated JUN 2 1981, at San Francisco, California.



President






Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.

Commercial Transfer, 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:

- I. Between all points and places in the State of California except to, from or between points in the Counties of Alpine, Del Norte, Eldorado, Imperial, Inyo, Lassen, Modoc, Mono, Nevada, Placer, Riverside, San Bernardino, Sierra and Siskiyou.

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.

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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.
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.

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12. Explosives subject to U.S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.
13. Transportation of fresh fruits, nuts, vegetables, and unprocessed agricultural commodities.
14. Transportation of any commodity, the transportation or handling of which because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads or streets, in any motor vehicle or combination of vehicles.
15. Transportation of liquid or semi-solid waste material or other bulk liquid commodity in any vacuum type truck or trailer.

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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