

93213

JUN 16 1981

ORIGINAL

Decision \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of G. A. Hutchinson & Son Draying, )  
a California Corporation, JOHN M. )  
ENGLAND, Trustee in Bankruptcy, )  
for authority to transfer its )  
certificated rights to operate )  
as a highway common carrier to )  
DISPATCH TRANSPORTATION )  
CORPORATION, a California )  
Corporation. )

Application 59774  
(Filed July 1, 1980)

O P I N I O N

By this application G. A. Hutchinson & Son Draying (**seller**), a corporation, by John M. England, Trustee in Bankruptcy, seeks authority to transfer two certificates of public convenience and necessity to operate as a highway common carrier to Dispatch Transportation Corporation (buyer).

Seller, a bankrupt, operated as a highway common carrier as defined in Section 213 of the Public Utilities (PU) Code. It operated pursuant to certificated authority issued by Decision (D.) 58571, dated June 8, 1959 in Application (A.) 40584 and D.51023, dated January 25, 1955 in A.35174, and transferred to it by D.70188, dated January 11, 1966 in A.48127. These decisions authorized the transportation of general commodities between points within the San Francisco East Bay Cartage Zone, and of specified commodities between San Francisco, on the one hand, and San Jose and certain intermediate points, on the other hand.

Seller was declared a bankrupt in the United States District Court, Northern District of California, on October 8, 1976 in Bankruptcy 3-76-1097. John M. England was appointed Trustee, and caused to be offered at Trustee's sale of June 21, 1977 the above mentioned certificated authority and Interstate Commerce Commission Certificate of Registration MC-99304 (Sub. 2).

Richard Delgado, doing business as Dispatch Transportation, was the high bidder for the authority sought to be transferred. On June 21, 1977 Lloyd King, Bankruptcy Judge for the United States District Court for the Northern District of California, accepted Richard Delgado's bid and issued his order approving Trustee's public sale of personal property. A copy of the order approving the sale is attached to the application. The total purchase price was \$1,050.

By D.90964, dated October 23, 1979 in A.57852, seller was authorized to transfer to Richard Delgado, doing business as Dispatch Transportation, the certificated authority involved in this application. The decision provided that the authority to transfer would expire if not exercised by December 31, 1979.

By letter dated March 31, 1981 buyer advises the authority granted in D.90964 was never consummated. Seller requests that D.90964 be set aside since Richard Delgado, the buyer in A.57852, is a corporate officer of the buyer in this proceeding.

Notice of the filing of the application appeared on the Commission's Daily Calendar of July 2, 1980. No protests to the application have been received.

Buyer's terminal facility is located at 475 Main Street, San Francisco. It possesses Public Utilities Commission permits as set forth in File T-131,249, and has conducted operations solely pursuant to those permits since May 29, 1980. A copy of

its balance sheet as of December 31, 1979 indicates assets of \$139,654, liabilities of \$54,316, and a net worth of \$85,338. An income statement for the 3-month period of buyer's operations ending December 31, 1979 shows operating revenues of \$152,865, operating expenses of \$109,125, and an operating ratio of 71.4. Buyer currently operates 4 tractors and 7 trailers in its permitted operations.

A copy of buyer's Articles of Incorporation included in its T-file shows that the corporation is authorized to issue 2,000 shares of capital stock and that G. A. Hutchinson, III, will be the sole shareholder. Hutchinson was an officer of seller.

Seller requests relief under Rule 87 of the Commission's Rules of Practice and Procedure from the provisions of Rule 37, which require wide dissemination of the application.

Upon authorization of the transfer and consummation thereof, buyer proposes to adopt highway common carrier tariffs at a level comparable to those maintained by common carriers in the geographical area in which it proposes to operate.

Appropriate application will be made to the Interstate Commerce Commission for the transfer of Certificate of Registration MC-99304 (Sub. 2).

Findings of Fact

1. Seller possesses certificates of public convenience and necessity to operate as a highway common carrier, as defined in Section 213 of the PU Code.
2. Seller was declared a bankrupt on October 8, 1976. John M. England was appointed Trustee in Bankruptcy.
3. Seller was authorized to transfer the certificated authority involved in this application to Richard Delgado, doing business as Dispatch Transportation, by D.90964 dated October 23, 1979 in A.57852.

4. The authority granted by D.90964 has expired since it was not exercised by December 31, 1979.

5. Buyer possesses the experience and financial ability to conduct a highway common carrier service for the transportation of **general commodities within the territory described herein.**

6. The transfer proposed herein would not be adverse to the public interest.

7. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.

8. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

9. 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 proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. G. A. Hutchinson & Son Draying, by John M. England, Trustee in Bankruptcy, may sell and transfer the operative rights specified in the application to Dispatch Transportation Corporation. This authority shall expire if not exercised by **September 30, 1981, or within** such additional time as the Commission may authorize.

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.

- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, and 104, and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Dispatch Transportation Corporation, a **California corporation**, authorizing it to operate as a highway common carrier, as defined in PU Code Section 213, between the points and over the routes listed in Appendix A.

4. The certificates of public convenience and necessity granted by Decisions 58571 and 51023, and transferred by Decision 70188 are revoked on the effective date of the tariffs.

5. Seller is granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application. This order becomes effective 30 days from today. Dated JUN 16 1981, at San Francisco, California.

John E. Bayne  
President  
Michael D. [unclear]  
Edward W. [unclear]  
Arthur [unclear]  
Priscilla C. Chew  
Commissioners



7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Explosives subject to U.S. Department of Transportation Regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities.
13. 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.
14. Transportation of liquid or semi-solid waste, or any other bulk liquid commodity, in any vacuum type tank truck or trailer.

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From San Francisco, on the one hand, to all points and places on the following highways between and including the cities named, on the other hand, for transportation of commodities listed in paragraphs 1 through 5 hereof.

- (a) Between San Mateo and San Jose via U.S. Highway 101.
- (b) Between San Mateo and San Jose via State Highway 82.
- (c) Between Hayward and San Jose via Mission Boulevard to its junction with State Highway 17 near Warm Springs, thence via State Highway 17 to San Jose.
- (d) Between San Lorenzo and San Jose via State Highway 17.
  - 1. ELECTRICAL APPLIANCES OR EQUIPMENT, OR PARTS NAMED, as listed under that heading in Items Nos. 34020 through 35430 of Western Classification No. 76, J.P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - 2. PAPER, as listed under that heading in Items Nos. 75260 through 75871 of Western Classification No. 76, J.P. Hackler, Tariff Publishing Officer, on the issue date thereof.
  - 3. PAPER ARTICLES, as listed under that heading in Items Nos. 75890 through 76980 of Western Classification No. 76, J.P. Hackler, Tariff Publishing Officer, on the issue date thereof.

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## SAN FRANCISCO-EAST BAY CARTAGE ZONE(Continued)

easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street, thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)

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