

ORIGINAL

Decision No. 28324

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 C. R. BECKER, an individual, doing)
 business under the firm name and style)
 of DELIVERY SERVICE COMPANY, for a)
 certificate of public convenience and)
 necessity, to operate an intercity auto)
 truck pickup and delivery service for)
 the transportation of packaged property)
 as a partial and limited common carrier)
 between Alameda, Oakland, Piedmont,)
 Emoryville, Berkeley, Albany, El Cerrito,)
 California, and intermediate points, and)
 along the roads traversed in reaching)
 said points, and to be limited in the)
 application thereof to the following)
 retail and wholesale businesses only,)
 to-wit: meats, groceries, auto accessories)
 and parts, mechanical tools (not exceeding)
 100 lbs.), periodicals and magazines,)
 newspapers (single issues), films and)
 prints (developed and undeveloped),)
 cosmetics, barber supplies, drugs and)
 sundries, stationery supplies, liquor,)
 wines (packages), paper supplies, bags,)
 twine, medical supplies and equipment,)
 optical supplies and equipment, dental)
 supplies and equipment, confections,)
 ice cream, candies and cakes (packaged),)
 blue prints, X-Ray pictures, cigars,)
 cigarette, tobacco, photo supplies and)
 cameras.)

Application No. 20144,
second supplemental,
as amended.

Clifton E. Brooks and Philip A. Winter for applicant.
J. A. McCunniff for Commission Staff.

O P I N I O N

C. R. Becker doing business as Delivery Service Company has been operating as a highway common carrier since 1936 between Alameda, Oakland, Piedmont, Emeryville, Berkeley, Albany and El Cerrito under a certificate of public convenience and necessity issued by Decision No. 28691 dated April 6, 1936, in Application No. 20144. Applicant's operative rights have been limited to the transportation of auto parts, accessories and supplies, bags, barber supplies, blue prints, candy and confections, cameras, cigars, cigarettes, tobacco and pipes, cosmetics, dental supplies and

equipment, drugs and medical supplies and equipment, films and prints, grocers supplies, labels, liquors, beer, ale and wines (packages), mechanical tools, optical supplies and equipment, paper and stationery supplies, periodicals, magazines and newspapers (single issues), photographic supplies, rubber stamps, twine and X-Ray plates and prints..

By Decision No. 47358 dated June 24, 1952, in Application No. 31832, as amended, the Commission issued to applicant a certificate of public convenience and necessity authorizing service as a highway common carrier in the territory consisting of Alameda County, Contra Costa County and part of Solano County for the carriage of general commodities between points referred to in the preceding paragraph and other points in said counties.. This certificate authorizes the carriage of general commodities in wholesale operations. This application filed December 5, 1952, requests the removal of restrictions. Public hearing was held before Examiner Rowe in Oakland, California, on January 30, 1953, at which time oral and documentary evidence was adduced and the matter duly submitted for decision.

Applicant testified that in the course of business under the two certificates there has been confusion and irritation to wholesale shippers by virtue of the restriction limiting commodities permitted to be carried in the original or inner territory. He stated that the limiting of commodities was originally intended to reflect the items carried in stock by the wholesale shippers. Now larger stocks are carried and he testified that many additional articles are now offered for transportation which were not produced or invented sixteen years ago.

In the proceeding in Application No. 31832 the competitors of applicant made no particular representation that he should be

restricted as to the type of freight to be carried. The only claim made was that applicant should be restricted as provided in a stipulation of all the parties appearing in the proceeding. These restrictions are now contained in said Decision No. 47358 as amended by Decision No. 47592, dated August 19, 1952. Applicant is willing to be restricted in the same manner in the territory he designates as Zone 1 described in said Decision No. 28691 if he is permitted to carry general commodities therein for wholesale dealers.

All those appearing in the proceeding in Application No. 31832 were served with copies of this Second Supplemental application on or before December 5, 1952, have been served also with copies of the amendment thereto and have indicated no objection. No public witnesses appeared but applicant testified fully in support of his application. No one appeared in opposition.

The Commission finds that public convenience and necessity require this partial removal of restrictions substantially upon the terms stated. The Commission staff pointed out certain modifications of the stipulated restrictions required to make them feasible and proper as applied to this territory. With these modifications the application will be granted.

O R D E R

Application therefor having been filed, the Commission being advised in the premises and finding that applicant's request should be granted,

IT IS ORDERED:

(1) That Decision No. 28691, as amended, dated April 6, 1936, in Application No. 20144 be and it is further amended on page 8 thereof in the ninth line following the words "for the transportation of" by inserting the words "at wholesale, general commodities and at retail".

(2) That the ordering paragraph in said Decision No. 28691 be and it is deleted and the following paragraphs substituted therefor:

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it hereby is issued to C. R. Becker doing business as Delivery Service Company authorizing him to render service as a highway common carrier between the points and carrying the freight as stated in the preceding paragraph subject to the restriction that -

1. Applicant shall not use trucks of a larger rating than one-half (1/2) ton.
2. Applicant shall not carry any package or parcel weighing more than one hundred (100) pounds.
3. Applicant shall not carry any package or parcel with a combined length and girth of more than one hundred sixty (160) inches.
4. Except as noted in paragraph 5, applicant shall publish only a tariff for parcel delivery in which charges are made per parcel or package delivered.
5. For shipments consisting of two or more parcels and weighing more than 100 pounds, transported between points embraced in this certificate, except shipments to and from El Cerrito, applicant shall publish and file tariff rates and charges which are not less than the minimum first-class rates and charges per shipment set forth in City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A, amendments thereto and reissues thereof. For shipments transported to or from El Cerrito, applicant shall publish and file tariff rates and charges which are not less than the minimum rate-basis

"A", first class rates and charges per shipment set forth in City Carriers' Tariff No. 2-A - Highway Carriers' Tariff No. 1-A, amendments thereto and reissues thereof. The provisions of this paragraph shall apply to articles for which minimum rates have been established by the Commission and to articles for which minimum rates have not been established by the Commission.

IT IS FURTHER ORDERED:

(1) That applicant shall file in triplicate, and concurrently make effective, appropriate tariffs within sixty days after the effective date hereof on not less than five days' notice to the public:

In all other respects and as heretofore and hereby modified said Decision No. 28691 shall be and remain in full force and effect.

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

Dated at San Francisco, California, this 2nd day of March, 1953.

[Signature]
PRESIDENT

[Signature]
[Signature]

[Signature]
[Signature]
COMMISSIONERS