

ORIGINALDecision No. 52070

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PHYLLIS M. PEARCE and FRANK H.)
HIMMELMAN, copartners, doing)
business as ALTA FREIGHT AND)
TRANSFER, for a certificate of)
public convenience and necessity)
to operate as a highway common)
carrier.)

Application No. 36290

O P I N I O N

Phyllis M. Pearce and Frank H. Himmelman are engaged in the transportation of property in California pursuant to permits and a certificate of public convenience and necessity issued by this Commission.

They seek an order authorizing them to conduct service as a highway common carrier for the transportation of general commodities, with certain exceptions, generally between South San Francisco and East Bay points, on the one hand, and San Jose, on the other hand, including intermediate points.

Notice of filing of the application was given all common carriers subject to the jurisdiction of this Commission.

Upon consideration of the allegations of the application and the representations filed pursuant to the above-mentioned notice, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. It appears that applicants possess the experience, equipment, personnel and financial resources to institute and maintain the operation as authorized herein. A public hearing is not necessary.

Applicants are hereby placed upon 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 over a particular route. This monopoly feature may be changed or destroyed 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

The Commission has considered the application and representations filed herein, Now Therefore

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Phyllis M. Pearce and Frank E. Himmelman, authorizing them to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed upon notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as

the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

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

Dated at San Francisco, California, this 11th day of October, 1955.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

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Phyllis M. Pearce and Frank H. Himmelman, by the certificate of public convenience and necessity granted in the above-numbered decision, are authorized to transport general commodities between San Mateo and San Jose and intermediate points on U. S. Highway 101 and 101 By-Pass and between Hayward and San Jose and intermediate points on State Highways 9 and 17.

Applicants shall not transport any shipments of:

- (1) Uncrated, unpacked and unwrapped personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling.
- (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, bus chassis.
- (3) Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
- (4) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.

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- (5) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles.
- (6) Commodities when transported in bulk in dump trucks or in hopper type trucks.
- (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.