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**ORIGINAL**

Decision No. 52790

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
IRWIN F. STEWART for a certificate	)	
of public convenience and necessity	)	Application No. 36113
authorizing transportation of prop-	)	
erty as a highway common carrier	)	
between various points in California.	)	

O P I N I O N

Irwin F. Stewart is engaged in the transportation of property in California pursuant to permits and a certificate of public convenience and necessity issued by this Commission.

Applicant seeks an order authorizing him to conduct service as a highway common carrier for the transportation of general commodities, with certain exceptions, generally between San Francisco Territory, on the one hand, and Sacramento, Stockton, Tracy, Manteca, Pittsburg, and various other intermediate and off-route points, on the other hand.

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 applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein. A public hearing is not necessary.

Applicant is 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 Irwin F. Stewart, authorizing him 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 and over the routes 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, applicant shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed upon notice that he will be required, among other things, to file annual reports of his 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 ten days' notice to the Commission and the public, applicant 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 13<sup>th</sup> day of March, 1956.

John E. Mitchell  
President  
Justus J. Casper  
Ray L. Linterman  
William L. Lusk  
R. H. Anderson  
Commissioners

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Irwin F. Stewart, by the certificate of public convenience and necessity granted in the above-numbered decision, is authorized to transport general commodities between Hayward, Richmond, San Leandro, Alameda, Oakland, Emeryville, El Cerrito, Albany, Berkeley, San Pablo and San Francisco, on the one hand, and on the other hand, all points and places along the following route: U. S. 40 from San Pablo to Crockett thence from Crockett along an unnumbered highway to Martinez, Avon, Port Chicago to and including Pittsburg; from Martinez via State Highway 21 to and including Walnut Creek. Service is authorized between intermediate points located along said routes and at the off-route points of Concord and Vallejo.

The following routes may be used for operating convenience:

1. State Highway 4 from its intersection with U. S. Highway 40 near Pinole to Pittsburg including authority to use all of the highways connecting State Highway 4 with the above-described unnumbered highway.
2. State Highway 24 between Berkeley and Walnut Creek.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.

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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.
5. 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.
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.

Applicant shall not establish through routes and joint rates, charges and classifications as to the operative right granted in Decision 51072, dated February 1, 1955, in Application No. 35770 over the authority hereinabove set forth.