

ORIGINAL

Decision No. 53311

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ARTHUR R. BENNETT, doing business as)
B-LINE EXPRESS, for a certificate of)
public convenience and necessity to)
transport property as a highway common)
carrier between Richmond, El Cerrito,)
Albany, Berkeley, Emeryville, Oakland,)
Piedmont, Alameda, San Leandro, and)
San Lorenzo, on the one hand, and)
Santa Rosa, Sebastopol, and various)
points in Marin and Sonoma Counties,)
on the other hand.)

Application No. 35560

Spurgeon Avakian, for applicant.
William Meinhold and Frederick E. Fuhrman, for Southern
Pacific Company, Pacific Motor Trucking Company and
Northwestern Pacific Railroad Company, protestants.
Marvin Handler, for James P. Nielson, doing business as
Nielson Freight Lines, protestant.
Douglas Brookman, for Merchants Express Company, protestant.
Willard Johnson, for J. Christenson Company, protestant.

O P I N I O N

By Decision No. 50944, dated January 4, 1955, in
Application No. 35560, the Commission denied the request of Arthur
R. Bennett, doing business as B-Line Express to operate as a highway
common carrier for the transportation of general commodities
between the East Bay Area from Richmond to San Lorenzo, on the one
hand, and points in Marin and Sonoma Counties located on or along
U. S. Highway 101, including Sebastopol, Mill Valley and Fairfax,
on the other hand. On February 23, 1955, the Commission granted
applicant's petition for rehearing. Rehearing was held before
Examiner Daly at San Francisco and the matter was submitted on
March 12, 1956.

Applicant is presently operating as a permitted carrier. His application was allegedly filed for the purpose of clarifying the legal status of such operations. During the course of the first hearing applicant introduced an exhibit covering past operations for a three-week period from August 20, 1953, to September 10, 1954. During said period applicant served approximately twenty-three shippers under either oral or written agreements. When considered with his testimony that he intended to operate as a contract carrier and would not change the nature of his operation if certificated the Commission denied the application.

In his petition for rehearing applicant asserted that if granted a rehearing he would introduce evidence covering a longer period in 1953, which would more accurately reflect his operations and justify the granting of the authority sought. During rehearing applicant introduced in evidence Exhibit 21 which summarized his operations from January 2, 1953, to and including September 10, 1953.

During that time applicant served approximately 81 consignors and the freight charges were paid by 101 different customers.

After consideration the Commission is of the opinion and so finds that public convenience and necessity require the granting of the application to the extent hereinafter set forth. It appears that applicant possesses the experience, equipment and financial resources to institute and maintain the proposed operation.

Arthur R. Bennett, is hereby 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, they 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

Application having been filed and a rehearing having been held thereon,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted Arthur R. Bennett, doing business as B-Line Express, 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 on 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 on 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 twenty days after the date hereof.

Dated at San Francisco, California, this 26th day of June, 1956.

Arthur E. Mitchell
President
Justus F. Caser
Raulo Anttonen
Montgomery

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.

Arthur R. Bennett, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the following commodities:

1. ADVERTISING MATTER, as listed under that heading in Items Nos. 225 through 330 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto.
2. BROOMS, BRUSHES OR MOPS, OR PARTS NAMED, VIZ.:
Brushes, vegetable or wood fibre
Handles and holders combined, brush or mop
3. BUILDING METAL WORK, INCLUDING ROOF TRIMMINGS OR GUTTERING OR VENTILATORS, VIZ.:
Sash, iron or steel
4. ELECTRICAL APPLIANCES OR EQUIPMENT, OR PARTS NAMED, VIZ.:
Controllers or controller parts
5. FOODSTUFF, BEVERAGES OR BEVERAGE PREPARATIONS, NOT NAMED IN OTHER MORE SPECIFIC GROUPS, VIZ.:
Honey
Jam, fruit
Salad Dressing
6. HARDWARE, as listed under that heading in Items Nos. 22455 through 23660 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto.
7. MACHINERY OR MACHINES, OR PARTS NAMED, VIZ.:
Floor polishing machines, electric
Garbage disposal units, sink, household, electric
Sanding machines, electric
8. PAINTS, PAINT MATERIAL OR PUTTY, as listed under that heading in Items Nos. 35175 through 35420 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto.

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9. PLUMBERS' GOODS OR BATHROOM OR LAVATORY FIXTURES, as listed under that heading in Items Nos. 36560 through 37010 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto.

10. RUBBER, ARTIFICIAL, GUAYULE, NATURAL, NEOPRENE OR SYNTHETIC, VIZ.:
 - Rubber compounds
 - Tire boots, patches, reliners, shoes or treads
 - Tire tubes
 - Tires, pneumatic

11. MISCELLANEOUS COMMODITIES, VIZ.:
 - Bottles, glass, other than cut
 - Boxes, fibreboard, without wooden frames
 - Cans, sheet iron or steel
 - Cement, roofing
 - Cement, rubber
 - Channels, iron or steel
 - Cheese
 - Coke, creosote
 - Compounds, buffing or polishing
 - Feed, animal or poultry, prepared
 - Furnaces, house heating, hot air
 - Glue
 - Heaters, water
 - Ladders
 - Lard
 - Lubricating oil, petroleum, in drums
 - Meats, fresh, cured, dried, dry salted or smoked
 - Paper, wall
 - Paste, adhesive
 - Starch
 - Tape, wallboard joining or reinforcing
 - Thermostatic valves or thermostats
 - Tile, facing or flooring, rubber composition
 - Turpentine

between

Richmond, El Cerrito, San Leandro, San Lorenzo, and those parts of Oakland, Alameda, Albany, Berkeley, Emeryville and Piedmont described as the pickup and delivery zone for Oakland in Item No. 260-5B of Minimum Rate Tariff No. 2, on the one hand, and, on the other hand, Santa Rosa

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via State Highway No. 17, Eastshore Highway, Richmond-San Rafael Ferry or Richmond-San Rafael Bridge and approaches, and U.S. Highway 101 serving all intermediate points located thereon north of the Golden Gate and south of Santa Rosa; also off-route points of Sausalito, Marin City, Greenbrae, Tiburon, Belvedere, Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo, Fairfax and San Quentin, serving said points via unnumbered highway diverging from U.S. Highway No. 101 at Mill Valley Junction or at San Rafael; also off-route point via unnumbered highway north of Cotati or via State Highway No. 12 between Santa Rosa and Sebastopol.

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