

Decision No. 54490**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOSEPH P. DELANEY and GENEVIEVE M.)
 DELANEY, husband and wife, doing)
 business as DELANEY DRAYAGE CO., for)
 a certificate of public convenience) Application No. 36227
 and necessity to operate as a highway)
 common carrier between San Francisco,)
 San Jose, Santa Cruz, Monterey,)
 Salinas and intermediate points.)

Marquam C. George, for applicants.
Daniel W. Baker and Marvin Handler, for Peninsula
 Motor Express and F. J. Burns Draying, and
Bruce R. Geernaert and Edward M. Berol, for
 Highway Transport, Inc., protestants.

O P I N I O N

Joseph P. Delaney and Genevieve M. Delaney are engaged in the transportation of property in California pursuant to a permit issued by this Commission.

Applicants seek an order authorizing them to conduct service as a highway common carrier for the transportation of general commodities between San Francisco, San Jose, Santa Cruz, Monterey, Salinas and Hollister and all intermediate points over various highways.

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

A public hearing was held at San Francisco on November 1, 1956 before Examiner Carl Silverhart.

Protestants did not present any testimony but engaged in cross-examination of applicant.

Upon consideration of the allegations of the application, the representations filed pursuant to the above-mentioned notice

and the evidence adduced at the hearing, 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 authorized herein.

Applicants are 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, 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

A public hearing having been held and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Joseph P. Delaney and Genevieve M. Delaney, 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 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, 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 on 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 on not less than ten 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 5th day of February, 1957.

W. E. Mitchell
 President
Paul W. Winter
R. H. ...
C. L. Fox
 Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.

Joseph P. Delaney and Genevieve M. Delaney, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport the following commodities:

1. ELECTRICAL APPLICANCES OR EQUIPMENT, OR PARTS NAMED, VIZ.:

Batteries, electric

2. FOODSTUFFS, BEVERAGES OR BEVERAGE PREPARATIONS, NOT NAMED IN OTHER MORE SPECIFIC GROUPS, VIZ.:

Jams, jellies or preserves
Mince meat
Syrups

3. PAINTS, PAINT MATERIAL OR PUTTY, as listed under that heading in Items Nos. 74750 through 75200 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.

4. PLUMBERS' GOODS, OR BATHROOM OR LAVATORY FIXTURES, as listed under that heading in Items Nos. 77890 through 78770 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.

5. TILE OR TILING, FACING OR FLOORING, OR FACING COVE OR MOLDING, as listed under that heading in Items Nos. 89470 through 89630 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.

6. MISCELLANEOUS COMMODITIES, VIZ.:

Cement, tile
Crates, wooden
Rugs
Soap

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between:

- A. San Francisco and San Jose and intermediate points via U. S. Highways 101 and 101 Bypass.
- B. San Francisco, on the one hand, and Los Gatos, Los Altos, Campbell, Cupertino, Watsonville, Seaside, Monterey and Santa Cruz, on the other hand.

The authority set forth in paragraph B does not include the right to render service to, from or between intermediate points.

Applicants shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs A and B.

End of Appendix A

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