

Decision No. 55155**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 AMADOR DISTRIBUTING CO., a corporation,)
 for certificate of public convenience)
 and necessity to operate passengers) Application No. 38336
 and express, and property service)
 between Jackson, Amador County and)
 Twin Lakes Resort, Alpine County.)

Pearce Deasy, for applicant.
Mrs. Marie Barney, for Kit Carson Stage
 Lines, protestant.
Charles W. Overhouse, for the Commission
 staff.

O P I N I O N

By the above-mentioned application, Amador Distributing Co., a corporation, requested a certificate of public convenience and necessity to operate as a highway common carrier between Jackson and Twin Lakes Resort and intermediate points. Applicant also requested a certificate of public convenience and necessity to operate as a passenger stage corporation for the transportation of passengers, baggage and express in the same area. Subsequent to the filing of the application, applicant asked that the portion of its application requesting a certificate of public convenience and necessity to operate as a passenger stage corporation for the transportation of passengers, baggage and express be dismissed.

A public hearing was held on April 19, 1957, at Jackson before Examiner William L. Cole at which time the matter was submitted.

Applicant is requesting that any operating authority granted it be limited to general commodities, the size of which does not exceed 125 cubic feet and the weight of which does not exceed 500 pounds.

The evidence introduced at the hearing indicates that applicant is presently engaged in distributing dairy products and has the contract to deliver the United States mail in the area in question. The evidence further shows that applicant has received numerous requests to institute a highway common carrier service and that it has sufficient equipment to serve this area.

At the time of the hearing applicant's representative testified that there were no other highway common carriers serving the area. He also testified that the demand for service therein occurs primarily in the summer months and for this reason applicant proposes to operate a regularly scheduled service from June 15 to September 15 of each year and an on-call service during the remainder of the year. The on-call service would be subject to weather and road conditions and to a minimum of 1,000 pounds of property being presented for transportation for any one trip.

Upon consideration of the allegations of the application 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 applicant possesses the equipment and financial resources to institute and maintain the operation authorized herein.

Applicant 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, 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.

Applicant in operating under a certificate of public convenience and necessity, is required to file tariffs satisfactory to the Commission. The application in the present matter contained an exhibit showing applicant's proposed rates. It is noted that several of these rates appear to be lower than the minimum rates established by the Commission. Applicant is hereby notified that specific authority must be requested and granted before rates lower than the minimum rates established by the Commission can be published. The present application does not request such authority.

The protestant in this matter did not introduce any evidence into the record at the time of the hearing.

O R D E R

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

IT IS ORDERED,

1. That a certificate of public convenience and necessity is granted to Amador Distributing Co., a corporation, authorizing it 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, subject to the conditions and restrictions contained therein.

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 it will be required, among other things, to file annual reports of its 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 19th day of June, 1957.

[Signature]
 President
[Signature]
[Signature]

Commissioners

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

Amador Distributing Co., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between Jackson and Twin Lakes Resort and intermediate points over the following route:

Jackson, Pine Grove, Pioneer, Buckhorn, Inspiration Lodge, Cook's Station, Ham's Station, Lumberyard Ranger Station, Tragedy Springs, Plasse, Kay's Resort, Silver Lake, Kit Carson Lodge, Kirkwood Lake, Kirkwood Inn and Twin Lakes Resort.

Applicant shall not transport any article which exceeds 500 pounds in weight or 125 cubic feet in size.

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.
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 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.

The operating rights set forth in this appendix may be conducted on an on-call basis during the period from September 15 of one year to June 15 of the succeeding year. This on-call service shall be operated only when weather or road conditions permit and only when a minimum of 1,000 pounds of property is presented for transportation for any one trip.

End of Appendix A

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