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**ORIGINAL**

Decision No. 55242

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
Emil P. Fleschner, doing business as  
SAME DAY DELIVERY SERVICE for a  
certificate of public convenience and  
necessity to operate as a highway  
common carrier of commodities gen-  
erally between points and places in  
portions of Los Angeles, San  
Bernardino, Riverside and Orange  
Counties. )

) Application No. 36375

Glanz & Russell by Theodore W. Russell  
for applicant.

James H. Williams for Southern California  
Freight Lines and Southern California  
Freight Forwarders, protestants.

O P I N I O N

Emil P. Fleschner, doing business as Same Day Delivery Service, is engaged in the transportation of property in California pursuant to permits issued by this Commission.

Applicant seeks an order authorizing him to conduct service as a highway common carrier for the transportation of general commodities between points in Los Angeles, Orange, Riverside and San Bernardino Counties.

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

A public hearing was held at Los Angeles on June 6, 1957 before Examiner John Power.

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 applicant possesses the experience, equipment, personnel 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.

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 Emil P. Fleschner, 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 ninety days after the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of July, 1957.

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President  
*Paul W. Lister*  
\_\_\_\_\_  
*Walter D. ...*  
\_\_\_\_\_  
*R. ...*  
\_\_\_\_\_  
*E. ...*  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Emil P. Fleschner, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places within the following described area:

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean; thence along the westerly and northerly boundaries of said city to its point of first intersection with the southerly boundary of Angeles National Forest; thence along the southerly boundary of Angeles National Forest to the easterly boundary line of the County of Los Angeles; thence southerly along said easterly boundary line of said county to the Pacific Ocean; thence northerly and westerly along the shore line of the Pacific Ocean to the point of beginning.

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.

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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.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 55212, Application No. 36375.