

ORIGINAL

Decision No. 58268

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of ROBERT PIERI, doing business )  
 as C-LINE EXPRESS, for an exten- )  
 sion of his certificate of pub- )  
 lic convenience and necessity to )  
 operate as a highway common )  
 carrier. )

Application No. 40687

E. H. Griffiths, for applicant.  
A. J. Lyon, for the Commission staff.

O P I N I O N

This application was filed on December 19, 1958. Public hearing was held before Examiner John Power at San Francisco on February 16, 1959 and the matter was submitted.

Applicant is now authorized to transport general commodities between Oakland, Berkeley and Richmond, on the one hand, and Vallejo, Benicia and Napa, on the other hand. He seeks to serve between San Francisco and Calistoga via U. S. Highway 40, State Highway 29, and intermediate points.

Applicant testified as an operating witness and presented four public witnesses. He offered to call 13 other witnesses (named by him) if a further hearing were held in Napa. The examiner ruled that this evidence would be cumulative and submitted the matter at the San Francisco hearing.

The staff presented one witness, a transportation representative. This witness presented, in exhibit form, the results of a study of applicant, his present and proposed service, competitive certificated carriers, and the economic characteristics of the area.

No protests to the application were made; therefore, the presentations of the applicant and the staff make up the record.

The evidence clearly establishes the fitness of applicant, in finances, equipment and experience, to undertake the proposed service. He has a home terminal in Napa and shares a dispatching service in Oakland.

The effect of the proposed service on the present common carrier structure can best be studied in the staff exhibit and the service proposal of applicant, based on his present service. In general, the applicant offers same day delivery on morning pickups and first morning delivery on afternoon pickups.

With two possible exceptions, the carriers studied by the staff witness render overnight service with first morning delivery. The rail carrier studied sometimes gives second morning delivery and one truck carrier may give same day service to Vallejo (the evidence is not clear). All of the studied carriers are large firms to which system and organization are important. They do not and probably cannot give the more personalized type of service that applicant proposes. To this, public witnesses added the importance, to each of them, of applicant's headquarters being in the Napa Valley area.

Shippers have a wide variety of requirements. No one type of carrier can satisfy them all. Thus the Commission anticipates little diversion of freight from present operators and is of the opinion that a carrier of applicant's type is needed in this area and that the sought extension of rights should be granted. No local service between points south or west of San Pablo will be authorized. The grant will take the form of a revocation of applicant's present authority and a grant of the extended certificate.

The Commission finds and concludes that public convenience and necessity require that the application be granted to the extent set forth in the following order.

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 modified or canceled 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, public hearing having been held and the Commission basing its decision on the findings set forth in the foregoing opinion,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Robert Pieri 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 more particularly set forth in Appendix A attached hereto and made a part hereof.

2. 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 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 to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. Applicant's present operating authority, conferred upon him by Decisions Nos. 52559 and 53420, in Application No. 36365, be and it is revoked. Said revocation shall take effect simultaneously with the institution of service under the authority herein granted.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this 14th day of April, 1959.

E. Lynn Fox  
President  
Robert L. Mitchell  
Matthew J. Gual  
Theodore A. Deussen  
Everett A. Gage  
Commissioners

Robert Pieri, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between San Francisco and Oakland, on the one hand, and Calistoga, on the other hand. Service is authorized to all intermediate points on U. S. Highway 40 between San Francisco-Oakland and the junction of said U. S. Highway 40 and State Highway 29, and on said Highway 29 between its junction with U. S. Highway 40 and Calistoga. Service is also authorized to the off-route point of Mont La Salle. No local service, however, is authorized between San Francisco, Oakland and San Pablo, or points intermediate between Oakland or San Francisco and San Pablo.

Applicant may use the highways named in this order and any other public roadways necessary or convenient to perform the service authorized by this order.

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 and 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 refrigerator 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.

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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.
8. High explosives.

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