

ORIGINAL

Decision No. 58280

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
ROBERT F. HARDING, an individual,
doing business as HARDING'S FREIGHT
SERVICE, for an in lieu certificate
of public convenience and necessity
as a highway common carrier of
special commodities between various
points and places in San Diego County,
pursuant to Sections 1063-1064 of the
California Public Utilities Code.

Application No. 40670

Glanz & Russell, by R. Y. Schureman, for applicant.
George W. Boyle and George E. Huggins, Jr., for
Southern California Freight Lines, Southern
California Freight Forwarders, and Boyle
& Sons, protestants.
A. J. Lyon for the Commission's staff.

O P I N I O N

Applicant's highway common carrier authority is set forth in Decision No. 52549. Generally the certificate grants him the right to transport "Automotive Parts or Accessories" and "Machinery or Machines, or Parts", between San Diego, Fallbrook and Pala and intermediate points, along U. S. Highway No. 395 and other highways and county roads in the Fallbrook and Escondido areas.^{1/}

By this application authority is sought to transport additional commodities such as hardware, lamps and fixtures, electrical appliances, or equipment, dental and hospital supplies, drugs, candy and confections as more specifically set forth in the application,

^{1/} Applicant also holds Radial Highway Common, Contract, and City Carrier permits Numbers 37-1818, 37-1819 and 37-4519, respectively.

and to enlarge its service area by serving the points and places along U. S. Highway No. 101 between San Diego and Oceanside and between said points and places and situated along the routes now served.

A public hearing was held in San Diego before Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced the matter was submitted for decision.

The evidence of record shows that applicant's financial condition as of December 31, 1958, was as follows: Total Assets (tangible), \$46,757.63; Total Liabilities, \$6,636.84; Net Worth, \$40,120.79, represented by Invested Capital, \$41,949.34, or a deficit of \$1,828.55. For the year 1958 the business operated at a profit of \$14,036.69, the deficit resulting from a withdrawal of \$15,865.24.

Applicant operates seven small trucks and maintains his principal terminal at Escondido, with minor facilities situated at San Diego. The evidence of record shows that he renders an efficient daily transportation service under his present certificated authority, making same-day and following-morning deliveries. Estimated daily tonnage is approximately four tons consisting mainly of l.c.l. shipments averaging about 100 pounds.

Eleven shipper witnesses engaged in the electrical equipment, wholesale drug, and auto parts and accessories businesses testified that a six-day-per-week transportation service with next-day and/or same-day delivery, as proposed by applicant, would be convenient and is needed by them or their firms. The evidence indicates that their present use of applicant's service as a certificated carrier or permitted carrier is more satisfactory than that of other carriers serving the same areas. Several of the witnesses testified that they also use other carriers for shipments to the same points

herein proposed. The latter carriers' services have been generally satisfactory but are not performed on Saturday, and same-day delivery is not available. Protestants, affiliated companies, operate a daily, five-day-per-week highway common carrier service in the area now served and proposed to be served by applicant, except that along the Valley Center and Pala route service is rendered twice weekly. On the other hand, applicant is proposing and, where authorized, has been rendering a service which in several respects is more convenient and is required by shippers of the named commodities.

Upon the evidence of record we find that public convenience and necessity require applicant's proposed transportation service for the commodities and along the routes as hereinafter set forth. The application will, therefore, be granted in part and denied in part. An in lieu certificate will be granted which will include applicant's present operating authority.

Robert F. Harding 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

A public hearing having been held, the Commission being fully advised in the premises and finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Robert F. Harding, 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 upon 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 upon 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.

(3) That, except as herein authorized, Application No. 40670 be, and it hereby is, denied.

(4) That the highway common carrier operating authority previously granted to applicant pursuant to Decision No. 52549 in Application No. 35976, dated January 31, 1956, is revoked, such revocation to take effect concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

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

L. J. Fox
President
Robert E. McMillan
William B. Dale
Thomas H. Deussen
Everett W. Sage
Commissioners

Appendix A

Robert F. Harding
doing business as
Harding's Freight Service

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Robert F. Harding, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the following commodities:

1. Automotive Parts or Accessories, as listed under that heading, in Items Nos. 2810 through 3505 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 27, 41, 46 and 47 thereto.
2. Machinery or Machines, or Parts named, as listed under that heading, in Items Nos. 28685 through 28735; 31480 through 31602 and 31895 through 31920 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 and 47 thereto.
3. Electrical Appliances or Equipment, or Parts, as listed under that heading in Items Nos. 34020 through 35430 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer.
4. Lamps, Lantern or Lighting Fixtures, or Parts, as listed under that heading in Items Nos. 55690 through 56100 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer.
5. Drugs, Medicines or Toilet Preparations, as listed under that heading in Items Nos. 33270 through 33780 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer.
6. Dental, Hospital or Surgical Supplies, as listed under that heading in Items Nos. 32300 through 32620 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer.

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Appendix A

Robert F. Harding
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between:

- a. San Diego, California, and Fallbrook, California, via U. S. Highway No. 395 to junction with California Highway No. 78 at Escondido; thence via California Highway No. 78 to Vista; thence via County Road HC 1-3 to junction California Highway No. 76 approximately 5 miles north of Vista; thence via California Highway No. 76 to Bonsall; thence via County Road HC 1-3 to Fallbrook; thence via County Road HC 1-3 to junction California Highway No. 76 at Bonsall; thence via California Highway No. 76 to U. S. Highway No. 395; thence via U. S. Highway No. 395 to San Diego.
- b. San Diego, California, and Pala, California, via U. S. Highway No. 395 to junction with County Road HC-19 at Escondido; thence via County Road HC-19 to Valley Center; thence via County Road HC-19 to junction with California Highway No. 76 at Rincon Springs; thence via California Highway No. 76 to Pala; thence via California Highway No. 76 to junction with U. S. Highway No. 395; thence via U. S. Highway No. 395 to San Diego.
- c. San Diego, California, and Vista, California, via U. S. Highway No. 101 to Oceanside; thence returning via U. S. Highway No. 101 to junction with California Highway No. 78; thence via California Highway No. 78 to Vista, and return over the same route.
- d. Serving all intermediate points on the above-described routes, and all off-route points within a radius of one mile from said routes, and between said terminal, off-route and intermediate points, and operating over the above-described routes in combination with each other.

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