

ORIGINAL

Decision No. 58893

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 M. G. MARINELLI, an individual, dba  
 M & L TRUCKING COMPANY for a certifi-  
 cate of public convenience and neces-  
 sity authorizing the transportation  
 of property between points in San  
 Francisco Territory and named points  
 in Contra Costa County.

Application No. 38650

Norman R. Moon, for applicant.  
Frederick W. Mielke, for Delta Lines, Inc.;  
Berol & Silver, by Bertram S. Silver and  
Bruce R. Geernaert, for Highway Transport, Inc.;  
and William Meinhold and Frederick E. Fuhrman,  
 for Southern Pacific Company and Pacific Motor  
 Trucking Company, protestants.  
Willard Johnson, for J. Christenson Co.,  
 interested party.

## O P I N I O N

M. G. Marinelli, doing business as M & L Trucking Company, and presently rendering service as a highway common carrier between points in the San Francisco Territory and certain points located in Marin County and Contra Costa County, requests authority to extend his operations between points in the San Francisco Territory, on the one hand, and Antioch, Concord, Clayton, Dublin, Martinez, Pittsburg, Walnut Creek and all intermediate points, as well as five miles laterally of the routes traversed, on the other hand.

Public hearing was held before Examiner Thomas E. Daly at San Francisco and the matter was submitted on May 27, 1957 upon briefs since filed and considered. On July 26, 1958 applicant filed a petition requesting that submission be set aside and the matter reopened for further hearing. The authority requested was granted on August 19, 1958 and further hearing was held on June 17, 1959, at which time the matter was again taken under submission.

Applicant's original certificate was granted upon an application filed pursuant to Decision No. 50448 popularly referred to as the policy decision. Although applicant's application encompassed a portion of the area herein sought, the Commission limited the certificate granted to the area within which he is presently authorized to serve.

Applicant owns and maintains a terminal in Berkeley. He employs on an average of 40 employees and he owns and operates 65 pieces of equipment. The record indicates that applicant has the experience and financial ability to conduct the proposed service.

During the course of the first hearing applicant introduced the testimony of five public witnesses and stipulated the testimony of four others. On June 17, 1959 applicant introduced the testimony of eight additional public witnesses.

The witnesses called represented large and diversified businesses located in San Francisco, Oakland, Berkeley, Emeryville, and Richmond. They stated that in addition to using applicant's presently certificated service they also make use of his service as a permitted carrier to the proposed area. Most of the witnesses were familiar with the existing carriers serving the proposed area and they voiced no complaint or dissatisfaction with their services. However, they did express their desire to use applicant because of one or several of the following reasons: Personalized same day service, possible split delivery shipments, limited damage experience, with expedited and favorable handling of claims, and limited dock facilities.

Applicant introduced exhibits for the purpose of indicating the population and industrial growth in Contra Costa during the past seventeen years.

Protestants introduced operating testimony describing the services which they provide to the area herein considered. They contend that they can accommodate additional traffic and that the proposed service would materially effect their existing operations.

Protestants take the position that applicant was adequately provided for in the policy decision and should not be permitted to extend his service to the proposed territory which is alleged to be adequately served by existing carriers.

After consideration the Commission finds that public convenience and necessity require the granting of the authority sought to provide a better and more complete service to those who use or desire to use applicant.

#### O R D E R

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to M. G. Marinelli authorizing the transportation of property between the points and over the routes set forth in Appendix A attached hereto.

(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.

- b. Within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicant shall establish the service herein authorized and shall file in triplicate, and concurrently make effective, amendments to his tariffs satisfactory to the Commission to reflect the authority herein granted.

(3) That Appendix A of Decision No. 53554 is hereby amended by substituting and including First Revised Page 1 and Original Page 2 attached hereto and by reference made a part hereof.

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

Dated at San Francisco, California, this 18th day of August, 1959.

Emmett O. Rago  
President  
E. J. Fox  
Theodore J. Jenner  
Commissioners

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

M. G. Marinelli, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

- (a) Points in the territory described in Appendix B attached hereto and also including the points of Castro Valley and San Pablo.
- \*(b) Points in the territory described in Appendix B attached hereto, on the one hand, and Antioch, Concord, Clayton, Dublin, Martinez, Pittsburg, Walnut Creek and all intermediate points via all streets and roads connecting said points and places, on the other hand.

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 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.

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\*Added by Decision No. 58893, Application No. 38650.

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

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