

ORIGINALDecision No. 59294

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Arthur R. Bennett, doing business as
 B-LINE EXPRESS for an order author-
 izing transportation of general
 commodities in lieu of limited com-
 modities as a highway common carrier
 between East Bay points on the one
 hand, and Santa Rosa, Sebastopol,
 and points in Marin and Sonoma
 Counties, on the other hand.

Application No. 40897

Scott Elder, for applicant.

Marvin Handler, for Nielsen Freight
 Lines and Willig Freight Lines,
 protestants.

O P I N I O N

Public hearings were held in this proceeding at Oakland on May 29 and at San Rafael on August 28, 1959, before Examiner John Power. On the last date the matter was submitted.

Applicant holds a certificate of public convenience and necessity created by Decision No. 53311, in Application No. 35560 on June 26, 1956. It authorizes the transportation of a long list of enumerated commodities between the greater Oakland Drayage Area and points on U.S. Highway 101 between the Golden Gate Bridge and Santa Rosa. Numerous suburban towns in Marin County which are not on Highway 101 are included as off-route points. Applicant seeks no territorial enlargement. He is here seeking to convert his limited commodity certificate to one authorizing the transport of general commodities with standard exceptions.

Applicant and seven public witnesses testified in support of the application. Each active protestant presented an operating

witness. The public witnesses were all shippers and receivers of freight.

The applicant and his witnesses made one point very strongly. It had to do with the nature of the commodity limitations in applicant's certificate. For example, he can carry paint but not linseed oil; certain types of paint brushes but not others; meat, cheese, honey, jam and salad dressing but not other kinds of food; roofing cement but not roofing; hot air furnaces and water heaters but not other types of heaters.

Applicant testified it has been difficult to operate under this certificate. His drivers frequently make mistakes, especially by accepting ineligible commodities. The shipper witnesses indicated their annoyance with some of these restrictions, especially those that prevent the accumulation of poundage.

The certificate shows no dedication to any particular industry or trade. The nature of the limitations is not required or desired by the public which uses the line. On the contrary, they are irritating to this section of the public. It appears that public convenience and necessity require that the requested enlargement be granted. The grant will take the form of a revocation of applicant's present certificate and its replacement by a new one.

Applicant is hereby placed upon 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

Public hearing having been held and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion; now, therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Arthur R. Bennett, 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 set forth in Appendix A and the area described in Appendix B, 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 to the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

(3) The present operating authority of Arthur R. Bennett, created by Decision No. 53311 in Application No. 35560, is hereby

revoked and cancelled. Said revocation and cancellation shall take effect simultaneously with the commencement of service under the authority herein granted and the making of the filings required by paragraph (2) hereof.

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

Dated at San Francisco, California, this 24th day of November, 1959.

Conrad Allen Foy
President
John E. Spindler
William H. Gable
E. L. Fox
Theodore H. Jenner
Commissioners

Arthur R. Bennett, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities between:

Richmond, El Cerrito, San Leandro, San Lorenzo and the area described in Appendix B, hereto attached, on the one hand, and, on the other hand, Sausalito, Santa Rosa and intermediate points on U.S. Highway 101 and the off-route points of Marin City, Greenbrae, Tiburon, Belvedere, Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo, Fairfax, San Quentin, and Sebastopol.

Applicant shall not transport any shipments of:

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
- f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

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- g. Articles of extraordinary or unusual value.
- h. Fruits, fresh (not cold pack or frozen) or vegetables, fresh or green, (not cold pack or frozen) as listed under that heading in Items Nos. 41815 through 42220 of Western Classification No. 77 of J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

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APPENDIX "B"

OAKLAND PICKUP AND DELIVERY ZONE

All of the City of Emeryville, also those parts of Albany, Alameda, Berkeley, Oakland and Piedmont bounded by the following:

Beginning at San Francisco Bay and Alameda-Contra Costa County Line, thence easterly along said county line to Curtis Street, southerly on Curtis Street to Solano Avenue, easterly on Solano Avenue to Tulare Avenue, southerly and westerly along city limits boundary line of Albany to Ordway Street, southerly on Ordway Street to Hopkins Street, northeasterly on Hopkins Street to Grove Street, southerly on Grove Street to Rose Street, easterly on Rose Street to Oxford Street, southerly on Oxford Street to Hearst Avenue, easterly and southerly along the city limit boundary line of Berkeley to Dwight Way, southwesterly and westerly on Dwight Way to College Avenue, southerly on College Avenue to Broadway, southwesterly on Broadway to Mather Street, easterly on Mather Street and Pleasant Valley Avenue to Rose Avenue, southwesterly on Rose Avenue to Echo Avenue, southerly on Echo Avenue to Linda Avenue, easterly on Linda Avenue to Grand Avenue, southerly on Grand Avenue to Mandana Boulevard, easterly on Mandana Boulevard to Lakeshore Avenue, westerly on Lakeshore Avenue to Excelsior Avenue, easterly on Excelsior Avenue to Hopkins Street, easterly on Hopkins Street to 55th Avenue, southwesterly on 55th Avenue to Camden Street, southeasterly on Camden Street to Seminary Avenue, northeasterly on Seminary Avenue to Outlook Avenue, southeasterly on Outlook Avenue to Parker Avenue, southerly on Parker Avenue to Foothill Boulevard, southeasterly on Foothill Boulevard to the Oakland-San Leandro boundary line, westerly along the Oakland-San Leandro boundary line and its prolongation to Edes Avenue, northwesterly on Edes Avenue to Jones Avenue, westerly on Jones Avenue to 98th Avenue, easterly on 98th Avenue to Railroad Avenue, northwesterly on Railroad Avenue and its prolongation to 50th Avenue, southwesterly on 50th Avenue to San Leandro Bay, northwesterly along the shore line of San Leandro Bay and Oakland Inner Harbor to Oakland Middle Harbor, northerly along shore line of Oakland Middle Harbor and Oakland Outer Harbor and San Francisco Bay to point of beginning;

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City of Alameda, beginning at High Street and Oakland Inner Harbor, thence southerly, westerly and northerly along the shore line to the mouth of the Oakland Estuary, thence easterly along the Alameda shore line of the Oakland Estuary to starting point; including Government Island.