

ORIGINAL

Decision No. 60334

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CHARLES DE BOER, d.b.a. DE BOER)
 TRUCK LINES for enlargement and)
 extension of existing operative)
 rights and for authority to operate)
 all of applicant's existing and)
 proposed highway common carrier)
 service as a consolidated and uni-)
 fied system for the transportation)
 of property, under and pursuant to)
 Sections Nos. 1063, 1064 and 1065)
 of the Public Utilities Code.)

Application No. 42023

W. H. Kessler, for applicant.

O P I N I O N

Charles De Boer, doing business as De Boer Truck Lines, seeks authority by this application to extend his certificate of public convenience and necessity as a highway common carrier in order to transport general commodities, with certain exceptions, between the San Francisco-East Bay area on the one hand and certain points in the San Joaquin Valley on the other hand. A public hearing on this matter was held before Examiner James F. Mastoris at San Francisco on May 12, 1960, at which time evidence was presented and the matter duly submitted.

Present Operating Authority

Presently this carrier operates under a certificate of public convenience and necessity authorizing limited commodity transportation between San Francisco and specific San Joaquin Valley and Delta region cities as well as between Sacramento and certain points surrounding Sacramento. This authority does not include the right to render service to or from intermediate points. In addition to its certificate the applicant holds radial highway common, highway contract, and city carrier permits.

Shipper Evidence in Support of Application

Applicant's evidence in support of this application indicated that increased highway common carrier authority is needed in order to satisfy the increasing public demand for service into the proposed territory. Shipper witnesses testified, in substance, that they require and will have future need for the overnight service offered by said applicant, that they desire the present service to continue in the future but without current territorial and commodity restrictions, that split-delivery rate advantages will become available with the proposed extension and that present rating problems involving mixed certificated and permitted shipments will be substantially eliminated with the grant of the additional authority. Future requirements in the San Joaquin Valley areas referred to in this application are expected to be similar to past transportation needs and these shippers preferred to continue with the applicant in light of the previous dependable pickup and individualized service given to them. These shippers, as well as the applicant, were also concerned with applicant's doubtful legal status as a result of his increasing frequency of operations between the same points. Consequently enlarged operative rights were alleged to be essential in order to maintain operations in the future without fear of violating the law.

Protests

No person or firm protested this application.

Findings and Conclusions

Evidence of the public need for this extension has been established. The Commission, therefore, is of the opinion and finds that public convenience and necessity require that the application be granted. We find and conclude that there is a present and prospective need for the proposed extension, and that the applicant possesses the experience and equipment to extend his certificate and maintain the operations to be authorized. We further find that

the applicant possesses the financial ability to support the proposed service and the resources to acquire such additional equipment as may be required to conduct such operations. The requested relief will be granted by adding new and revised pages to Appendix A of the applicant's present certificates, established in Decision No.53586, Application No.36135, in order to incorporate the additional authority granted in the order that follows. Appendix A, therefore, as set forth in the following order, will encompass the entire certificate, as revised, of De Boer Truck Lines.

Charles De Boer 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 aspects, 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, a public hearing having been held, and based upon the above findings,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Charles De Boer authorizing the establishment and operation of service as a highway common carrier as that term is defined in Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof, and subject to the conditions and restrictions of said Appendix A. Operating rights presently described in applicant's current Appendix A

A. Charles De Boer, 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, and over the routes specified, including intermediate points, as well as all off-route points located within a radius of 10 miles laterally of the named highways, as follows: ✓

1. San Francisco and Sacramento and all points between San Francisco and Sacramento on U. S. Highway 40 and California State Highway No. 24.
2. San Francisco and all points on U. S. Highways 50, 99 and California State Highway 120 between San Francisco and Fresno.
3. Sacramento and all points on U. S. Highways 50, 99 and California State Highway 120 between Sacramento and Fresno.
4. Between Oakland, Emeryville, Berkeley, Alameda, San Leandro, Albany, El Cerrito, San Pablo and Richmond on the one hand and all points referred to in paragraphs 1, 2 and 3 above, on the other hand.

Provided however: No local service shall be rendered between points within the San Francisco-East Bay Cartage Zone as described on First Revised Page 3 and Original Page 4 hereof.

5. Between South San Francisco, Millbrae, San Bruno and intermediate points on the one hand, and all points referred to in paragraphs 1, 2 and 3 above, on the other hand.

Provided however: No local service shall be rendered between points within the San Francisco-East Bay Cartage Zone as described on First Revised Page 3 and Original Page 4 hereof.

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- B. Charles De Boer 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 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 semi-trailers 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.
 8. Logs.
 9. Commodities which by reason of their abnormal size, weight or bulk require special equipment and handling.
 10. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
 11. Commodities likely to contaminate or damage other freight.
 12. Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.

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The San Francisco - East Bay Cartage Zone, including the area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnwood Drive to So. Mayfair Avenue; thence westerly along said So. Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U. S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U. S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U. S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek, thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to

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Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland, thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U. S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U. S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U. S. 40; thence northerly along Highway U. S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

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Decision No. 60321, Application No. 42023.