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Decision No. \_\_\_\_\_  
60335

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
I. F. STEWART, doing business as )  
STEWART DRAYAGE LINES, for a certi- ) Application No. 41655  
ficate of public convenience and )  
necessity to extend highway common )  
carrier services. )

Marvin J. Colangelo and Frank Loughran, for applicant.

O P I N I O N

The application herein was filed November 12, 1959. A public hearing was held before Examiner John Power at San Francisco on March 24, 1960 and the matter was submitted subject to receipt of a late-filed exhibit which has been received. There were no protests to the application.

Applicant is presently authorized to serve the San Francisco-East Bay Cartage Zone and a number of points in Contra Costa County. By the instant application he seeks to expand his operating authority to serve Novato, San Jose, Sacramento and Modesto and virtually all of the intermediate points included in the area.

Applicant testified regarding operating matters and produced public witnesses. Data regarding other public witnesses who would have testified if needed was presented in a late exhibit filed to support an offer of proof.

The public witnesses had used the services of applicant and found them entirely satisfactory. They would, they testified, use Stewart in the requested areas if the application were granted. They believed that this would be helpful to their several companies.

The Commission finds that public convenience and necessity require that the sought authority be granted.

Applicant is fitted by experience, equipment, facilities, personnel and financial condition to assume the enlarged burden of service he proposes to undertake.

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

Public hearing having been held and based upon the evidence adduced therein,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to I. F. Stewart, 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 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 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 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, 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) That the certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supersedes all existing highway common carrier operating authority and certificates of public convenience and necessity heretofore granted to or acquired by I. F. Stewart, which operating authority and certificates are hereby canceled and revoked, said revocation to become effective 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 28<sup>th</sup> day of June, 1960.

[Signature] President  
[Signature]  
[Signature]  
Theodore Deemer Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

I. F. Stewart, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities between all points and places located on or laterally within five miles of the following highways:

1. U.S. Highways 101 and 101-A between Novato and San Jose.
2. State Highway 37 from its intersection with U.S. Highway 101 near Ignacio to its intersection with State Highway 48 near Sears Point.
3. State Highway 48 from its intersection with State Highway 37 near Sears Point to its intersection with State Highway 29 north of Vallejo.
4. State Highway 17 between Oakland and San Jose.
5. U.S. Highway 40 between San Francisco and Sacramento.
6. U.S. Highway 50 between San Francisco and Sacramento.
7. State Highway 24 from its intersection with U.S. Highway 40 in Berkeley to Sacramento.
8. State Highway 4 between Pinole and Stockton.
9. Unnumbered highway between Crockett and Antioch via Martinez and Port Chicago.
10. Unnumbered highway from its intersection with State Highway 24 at Concord to Byron via Clayton.
11. Unnumbered highway between Byron and Tracy via Bethany.
12. State Highway 21 between Cordelia and the intersection of said State Highway 21 with State Highway 9 near Mission San Jose.

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13. State Highway 9 between its intersection with U.S. Highway 50 near Hayward to its intersection with State Highway 17 near the Warm Springs section of Fremont.
14. State Highway 29 from Napa to its intersection with U.S. Highway 40 near Vallejo.
15. State Highway 12 between Lodi and Napa.
16. State Highway 99 between Manteca and Modesto.

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 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.

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