

Decision No. 60551**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 WILLIAM R. JOHNSON, an individual, )  
 doing business as J & J TRUCK LINE, )  
 for a certificate of public conven- )  
 ience and necessity to operate as a )  
 highway common carrier for the )  
 transportation of general commodi- )  
 ties between intermediate points on )  
 his presently certificated routes )  
 and between points on his certifi- )  
 cated routes and San Francisco, )  
 Pittsburg, Antioch, Hollister, )  
 Soledad, Carmel and certain other )  
 points. )

Application No. 40923

Marquam C. George and A. R. Lynn, for applicant.  
Handler & Baker by Daniel W. Baker and John W.  
Wythe, for Security Truck Line; J. Richard  
Townsend for Garden City Transportation Co.,  
Ltd.; Norman R. Moon, for Highway Transport,  
 Inc., protestants.

O P I N I O N

This application was filed on March 13, 1959. Public hearings were held in San Francisco on July 9 and October 6, 1959, and at San Jose on October 7, 1959, before Examiner John Power. On October 7 the matter was submitted subject to the filing of two late-filed exhibits. These have been received and the matter is ready for decision.

Applicant presently has authority, under Decisions Nos. 54488 and 55039 in Application No. 36215, to serve between Oakland, Berkeley, San Leandro and Mulford, on the one hand, and Peninsula points, San Jose, Gilroy, Salinas, Monterey, Watsonville, Santa Cruz and a few other points, on the other hand. In general the present application as amended seeks authority to extend into the industrial portion of Contra Costa County, San Francisco, Fremont, Milpitas, Hollister, Soledad and to points intermediate.

The applicant testified in his own behalf as an operating witness. Fifteen public witnesses were presented. Applicant had requested a further hearing at San Jose on October 8 at which seven other witnesses would have been offered. These witnesses were not called, however, as their testimony would have been cumulative; and there were no protestants in attendance at San Jose on October 7. The two groups together, with their business locations, were: four from San Francisco, seven from San Jose, two from Santa Clara, and one each from Alameda, Antioch, Berkeley, Emeryville, Los Gatos, Monterey, Oakland, Salinas, San Carlos, South San Francisco and Watsonville.

Applicant operates from a terminal at San Jose and has a dispatching office at Oakland to handle the traffic in the East Bay and San Francisco area. Twenty-six pieces of equipment are used. Applicant has sixteen full-time and one or two part-time employees. His finances are adequate and applicant has a substantial investment in the business.

The public witnesses present strongly supported the application. It was clear from their testimony that applicant has been able to serve his customers in a satisfactory manner. They would like to see applicant's authority extended to additional points. They testified that they would use the service to these new points if applicant were authorized to serve them. They believed that such an extension would benefit their several businesses.

Since public hearings on this certificate application were held, applicant has caused two corporations to be organized. He proposes to transfer to Johnson Lease Corporation his mobile (automotive) equipment, and to transfer his operating rights to J & J Truck Line, a California corporation, such transfer to be made at the book value.

The book values are alleged to be \$61,722 in the case of the tangible property and \$8,509 for the intangible property to be transferred to J & J Truck Line. He requests the Commission, by an amendment filed on June 2, 1960, to issue an in lieu certificate to the corporation and to cancel his present certificate which he holds as an individual.

The amendment to application alleges that Johnson intends to assign his present leases on his terminal facilities and shops to J & J Truck Line. Attention is called to the provisions of Section 851 of the Public Utilities Code. William R. Johnson is placed on notice that any transfer of such leaseholds must be made in compliance with said section.

The Commission finds and concludes that public convenience and necessity require that the authority sought in the application be granted to that extent provided by the following order and that public convenience and necessity will no longer require a continuance of William R. Johnson's service when service is instituted under the authority granted herein to J & J Truck Line, a corporation.

After consideration the Commission is of the opinion and finds that the proposed transfers would not be adverse to the public interest. A further public hearing on the transfers is not necessary.

J & J Truck Line, a corporation, 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 hearings having been held and based upon the evidence adduced therein and the application,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to J & J Truck Line, a corporation, authorizing it 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 Appendices A and B attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, J & J Truck Line, a corporation, shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, J & J Truck Line, a corporation, shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, J & J Truck Line, a corporation, is placed on notice that it will be required, among other things, to file annual reports of its 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, J & J Truck Line, a corporation, shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

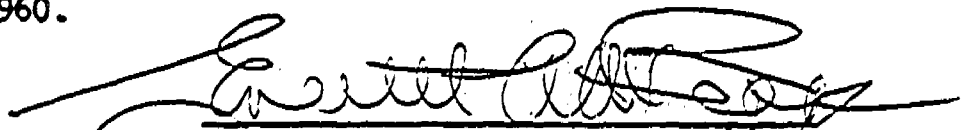


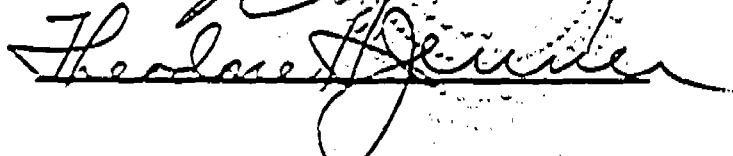
(3) The certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by William R. Johnson, an individual, which

certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required of J & J Truck Line, a corporation, by paragraph (2) (b) hereof.

(4) William R. Johnson is authorized to transfer the automotive equipment referred to in the amendment to the application herein to Johnson Lease Corporation at the book value of such equipment as of the date of transfer and J & J Truck Line, a corporation, is authorized to enter into a lease of such equipment, provided, however, that the authority hereby granted to sell and lease equipment is subject to the condition that such equipment is not relieved from its devotion to the public use and that its status as public utility operative property shall continue as though no transfer had taken place, anything in the agreements to sell and lease to the contrary notwithstanding.

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

Dated at San Francisco, California, this 9th day of August, 1960.

  
\_\_\_\_\_  
President  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
Commissioners

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

J & J Truck Line, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between:

1. All points and places in San Francisco Territory as said territory is described on Appendix B hereto attached.
2. Points on U. S. Highway 40 between Richmond and junction State Highway No. 4 (subject to Note 1).
3. Points on State Highway No. 4 between junction U. S. Highway 40 and Antioch (subject to Note 1).
4. Points on State Highway No. 21 between its intersection with the boundary line of San Francisco Territory near Mission San Jose and Martinez (subject to Note 1).
5. Points on State Highway No. 24 between Oakland and junction State Highway No. 4 near Concord (subject to Note 1).
6. Points on U. S. Highway No. 50 between San Francisco Territory and a point north of the easternmost point on the city limits of Livermore.
7. All points on U. S. Highway No. 101 between San Jose and Soledad.
8. All points on State Highway No. 9 between Saratoga and Santa Cruz.
9. All points on State Highway No. 17 between Los Gatos and Santa Cruz.
10. All points and places on U. S. Highway No. 1 between Santa Cruz and Carmel.
11. Points on State Highway No. 156 between junction U. S. Highway 101 and Hollister.

Issued by California Public Utilities Commission.

Decision No. 60551, Application No. 40923.

12. Subject to Note 1, below, J & J Truck Line, a corporation, may serve all intermediate points on highways named, points within ten miles laterally of said highways and points within a radius of ten miles of the terminal points named.
13. J & J Truck Line, a corporation, may serve without limitation between any two points designated in paragraphs 1 through 13 above or any of them.

J & J Truck Line, a corporation, may use any and all roads, streets, highways and toll bridges necessary or convenient to the performance of the service herein authorized.

Note 1. The rights and lateral rights herein granted are subject to the limitation that J & J Truck Line, a corporation, shall not serve any point north of the northerly boundary line of Contra Costa County or east of the easterly boundary lines of Contra Costa and Alameda counties.

J & J Truck Line, a corporation, 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.

Issued by California Public Utilities Commission.

Decision No. 60551, Application No. 40923.

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 refrigerator 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.

Issued by California Public Utilities Commission.

Decision No. 60551, Application No. 40923.