

**ORIGINAL**Decision No. 60627

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 FRANK MOORE and KENNETH MOORE, a  
 co-partnership, doing business as  
 MOORE TRUCK LINES, for a certificate  
 of public convenience and necessity  
 to operate as a Highway Common  
 Carrier between certain intermediate  
 points on the presently certificated  
 routes together with off-route points  
 of San Francisco, Livermore and  
 Richmond.

Application No. 40966

George and Dillon by Marquam C. George, for  
 applicants.

Norman R. Moon, for Highway Transport, Inc.,  
 et al.; Frederick W. Mielke, for Delta  
 Lines, Inc., California Motor Express, Ltd.,  
 et al., Southern California Freight Lines,  
 et al., and Valley Express Co., et al.;  
F. S. Kohles, for Valley Express Co., et al.;  
Francis X. Vieira, for Reilley Truck Lines,  
 Swanson's Truck Service, Blincoe Trucking  
 Company and De Boer Truck Line; protestants.

O P I N I O N

This application was filed on March 24, 1959. Public  
 hearings were held at San Francisco, Fresno and Stockton before  
 Examiner John Power and the matter was submitted at Stockton on  
 May 4, 1960.

Applicants' present certificate authorizes transportation  
 of general commodities between Oakland, Berkeley, Emeryville and  
 San Leandro on the one hand and points on U. S. Highway No. 99,  
 Sacramento to Bakersfield and several named off-route points on the  
 other hand. In general, the present application seeks to add some  
 new points notably San Francisco and Richmond and to enlarge its  
 rights within its presently certificated area.

At the San Francisco hearing there were a number of protestants. Although only two of these formally withdrew, there was only one active protestant left by the time of the final hearing.

Applicants presented a substantial number of shipper witnesses. These witnesses strongly supported the application. They were familiar with the service and had found it suited to their needs. They believed that their respective companies or businesses would benefit if the application were granted. They anticipated that they would make use of the extended service. In addition to these witnesses applicants introduced three exhibits showing the use made, and possibly to be made, of the Moore service by a large number of firms located in various points covered by the application.

The Commission finds and concludes that public convenience and necessity require that the application be granted to the extent provided by the following order.

Applicants introduced evidence to show that their finances, equipment, facilities, experience and personnel are adequate to enable them to perform the service contemplated by the proposed extension.

The ownership of Moore Truck Lines has been in dispute. Superior Court Case No. 68583 in San Joaquin County has as plaintiffs Frank L. Moore, Kenneth M. Smith and Jerre R. Moore. The defendant is Kenneth R. Moore. On April 21, 1960, on order of the court, the partnership of all three plaintiffs and the defendant was dissolved as of December 19, 1956. This order has been appealed.

Subsequent to the Superior Court case, Kenneth M. Smith has disposed of his interest to Frank L. and Jerre R. Moore. The following order will grant the certificate to Frank L. and Jerre R. Moore, these persons being in possession of the operating property

and in a position to render the service required by the public. The authority herein granted will be limited to a maximum period of one year. The authority can be permanently granted or granted to another combination of owners whenever the question of ownership is finally settled.

Frank L. Moore and Jerre R. Moore are 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 and the application,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Frank L. Moore and Jerre R. Moore, authorizing them 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, applicants shall comply with and observe the

following service regulations:

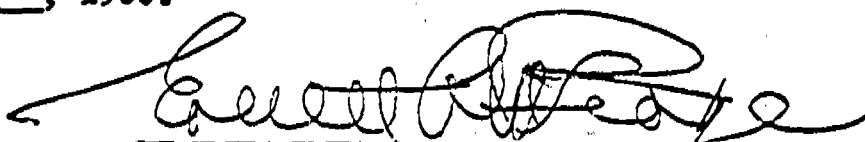
- a. Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their 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, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.


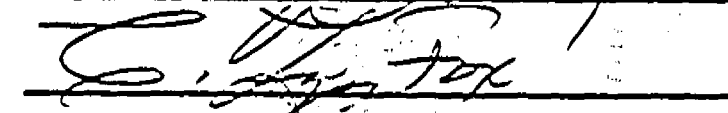
3. That the certificate of public convenience and necessity granted in paragraph 1 of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Frank L. Moore and Kenneth R. Moore, which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required of applicants by paragraph 2b hereof.

4. The operating authority granted by this order shall expire at the end of one year from the effective date hereof unless otherwise provided by further order of the Commission.

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

Dated at San Francisco, California, this 23rd day of August, 1960.

  
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President

  
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Commissioners

Peter E. Mitchell  
Commissioner Theodore H. Jenner, being  
necessarily absent, did not participate  
in the disposition of this proceeding.

Frank L. Moore and Jerre R. Moore, by the certificate of public convenience and necessity noted in the margin, are authorized to transport general commodities between;

1. San Francisco, Richmond, El Cerrito, Albany, Berkeley, Emeryville, Oakland, Alameda, San Leandro, Livermore, Tracy, Carmichael, McClellan Air Force Base, Sanger, Locans, Reedley, Dinuba, Lindsay, Porterville, Visalia and Hanford.
2. All points and places on U. S. Highway No. 99 between Sacramento and Bakersfield including Fresno and Bakersfield.
3. All points listed in paragraph 1 and all points designated in paragraph 2.

Applicants may serve any point within three miles, air line distance, of any point they are herein authorized to serve and any point within three miles, air line distance, laterally of U. S. Highway No. 99, Sacramento to Bakersfield, inclusive.

For operating convenience, Frank L. Moore and Jerre R. Moore may use any or all streets, roads, highways, toll bridges or public ferries.

Frank L. Moore and Jerre R. Moore shall transport no 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.

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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 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.

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