

ORIGINAL

Decision No. 60839

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PORTOLA DRAYAGE CO., a corporation,)
 for a certificate of public conven-)
 ience and necessity to operate as a)
 highway common carrier.)

Application No. 42114

Handler and Baker, by Daniel W. Baker, for applicant.
 George and Dillon, by Marquam C. George, for Peninsula
 Delivery Service, Tyler Bros. Drayage, Durkee
 Drayage, Svane Drayage, Imperial Drayage, Scannell
 Bros. Drayage, South End Warehouse, Ruddway Drayage
 and Peninsula Motor Express, protestants.
Russell Bevans, for Draymen's Association of San Francisco,
 Inc., interested party.
Thomas W. Morley, for the Commission staff.

O P I N I O N

This application was filed on April 5, 1960. Public hearings were held in San Francisco on June 13 and 27 and July 26, 1960, before Examiner John Power. The matter was submitted on the last-named date, subject to the filing of briefs. These have been received and the matter is ready for decision.

Applicant is a highway permit carrier with headquarters in San Francisco. It renders a local draying service throughout the San Francisco Bay area. By the instant application it seeks a highway common carrier certificate to serve between San Francisco and Richmond on the north and San Jose, Los Gatos and Saratoga on the south.

Applicant presented two operating and numerous public witnesses in support of the application. The public witnesses were shippers who had made use of the service. These witnesses testified that the applicant's service had been well suited to their needs. They had not been solicited by applicant. They do not think they can

be adequately served by a carrier with authority less extensive than that requested here. They will continue to use applicant's service if past high standards of service are maintained in the future.

Applicant fears that it is in danger of exceeding its permitted authority. Not all proffered traffic has been accepted. Solicitation has been avoided. Nevertheless, increasing business had brought Portola very close to the borderline. Further growth or further migration of customers within the Bay Area may endanger its operation.

Applicant's finances are adequate. Its fleet, now consisting of eleven units presently is not adequate. A twelfth unit is needed and will be acquired when the present application is decided. Experience, personnel and terminal facilities are sufficient for present usage. Applicant is able to add to any of them if need arises. It appears that applicant will be able to perform the service it proposes.

Nine transportation companies protested the application but only three sent a witness to give evidence. There was extensive cross-examination of applicant's witnesses. Protestants' case included an attempt to show diversion of traffic but their evidence fell short in this regard.

The Commission finds that public convenience and necessity require that the application be granted as set forth in the following order.

Applicant is 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 findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Portola Drayage Co., 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 Appendix A attached hereto and made a part hereof.

2. 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 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 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.

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

Dated at San Francisco, California, this 4th
day of October, 1960

Carroll W. Page
President
E. J. F. Fickel
W. J. Fickel
E. J. Fickel
Theodore Jensen
Commissioners

Portola Drayage Co., 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 on or within five miles laterally of the following highways:

1. U. S. Highways Nos. 101 and 101 Bypass between San Francisco and San Jose, both inclusive.
2. U. S. Highway No. 40 and State Highway No. 17 between Richmond and Los Gatos, both inclusive.
3. U. S. Highway No. 50 and State Highway No. 9 between Oakland and Saratoga, both inclusive.

Applicant may serve between any two points named in this appendix whether named in one or more than one of the three numbered paragraphs above.

Applicant may make use of any and all streets, roads, highways, bridges and ferries in performing the service herein authorized.

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.

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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 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.
8. Logs.

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