

ORIGINALDecision No. 60989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ELWOOD H. HORTON and HAROLD H. NEWSOM,
 a partnership, doing business as
 CONTRA COSTA DELIVERY SERVICE, for an
 expansion and re-statement of their
 certificate of public convenience and
 necessity authorizing highway common
 carrier service.

Application No. 42438

Marquam C. George, for applicants.O P I N I O N

By this application filed July 5, 1960, Elwood H. Horton and Harold H. Newsom, as partners, request an extension of their operative authority which is now limited generally to East Bay points, so that it will include San Francisco, South San Francisco, Vallejo, Port Chicago, Antioch, Stockton, Lodi, Pleasanton, Tracy, San Lorenzo, Hayward and intermediate points and off route points within three miles of the highways involved.

A public hearing was held in San Francisco on September 28, 1960, before Examiner Rowe. All competitors were notified but no one appeared in protest. Evidence was adduced and the matter was duly submitted for decision.

The undisputed evidence shows that more than ninety extensive shippers require the proposed service and that applicants are properly equipped, experienced, and financially able to adequately perform it. From this evidence the Commission finds that public convenience and necessity require that applicants be granted the extended highway common carrier rights requested. This will be

accomplished by the issuance of a new certificate of public convenience and necessity combining all of applicants' operating authority.

Applicants 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

A public hearing having been held and based upon the evidence adduced therein and the above findings,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Elwood H. Horton and Harold H. Newsom 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 as more 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 operating authority granted by Decision No. 53729 dated September 4, 1956, in Application No. 36221 is hereby revoked and canceled, such cancellation to become effective concurrently with the effective date of tariff filings required by paragraph 2(b) hereof.

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

Dated at Los Angeles, California, this 1st day of November, 1960.

Walter P. [Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

Elwood H. Horton and Harold H. Newsom, by the certificate of public convenience and necessity noted in the margin, are authorized to transport general commodities except:

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 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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Between all points on or within three miles laterally
of the following described routes:

1. U. S. Highways 101 and 101 Bypass between San Francisco and South San Francisco inclusive.
2. U. S. Highway 40 between San Francisco and Vallejo inclusive.
3. U. S. Highway 50 between San Francisco and Stockton inclusive.
4. State Highway 17 between Oakland and San Lorenzo inclusive.
5. State Highway 9 between Castro Valley and Hayward inclusive.
6. State Highway 24 between Oakland and Pittsburg inclusive.
7. State Highway 21 between Martinez and junction with unnumbered county road near Pleasanton inclusive.
8. State Highway 4 between Pittsburg and Stockton inclusive.
9. U. S. Highway 99 between Stockton and Lodi inclusive.
10. Unnumbered county road between Crockett and Antioch inclusive, via Port Costa, Martinez, Avon, Port Chicago, Shore Acres and Pittsburg.

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11. Unnumbered county road between junctions with U. S. Highway 50 and State Highway 21 via Livermore and Pleasanton.
12. Unnumbered county road between San Pablo and Moraga inclusive via El Sobrante and Orinda.
13. Unnumbered county road between Moraga and Lafayette inclusive.
14. Unnumbered county road between Concord and State Highway 4 inclusive via Clayton and Byron.

Through routes and rates may be established between any and all points specified in subparagraphs 1 through 14 above.

End of Appendix A

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