

ORIGINALDecision No. 61028

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GEORGE J. SMITH and GORDON G. SMITH,)
 co-partners d/b/a SMITH TRUCK LINE)
 for a Certificate of Public Conven-)
 ience and Necessity to operate as a)
 Highway Common Carrier as defined in)
 or required by Sections 213, 1063)
 and 1064 of the Public Utilities Act)
 of the State of California.)

Application No. 42412

William H. Kessler, for the applicant.O P I N I O N

George J. Smith and Gordon G. Smith, copartners doing business as Smith Truck Line, are operating under permitted authority as a radial highway common carrier, a highway contract carrier, and a city carrier.

The applicants now request a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code authorizing the applicants to transport general commodities, with certain exceptions, along Highway 99 from Modesto to Bakersfield, with service to Los Banos, Hanford and Visalia.

A public hearing was held before Examiner Edward G. Fraser on September 28, 1960, at Fresno. No appearance was made in protest to the authority requested.

The evidence shows that there has been considerable recent industrial growth in the areas to which a certificate now is requested. The applicants have customers who desire service into this area, and likewise they desire split pickups and split deliveries to be made therein.

The shipper witnesses who testified indicated that it would be beneficial to their respective companies to have the applicants provide this service.

The evidence further discloses that the applicants are able to supply the service. The applicants have adequate equipment, have had the necessary experience, and are financially sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order which will provide for the issuance of a certificate of public convenience and necessity.

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 application and representations filed herein,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to George J. Smith and Gordon G. Smith, 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 along the routes as more particularly set forth in Appendix A attached hereto, which by this reference is 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 the public, applicants 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
7th day of November, 1960.

President

Commissioners

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

George J. Smith and Gordon G. Smith, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport general commodities between all points and places along and within 10 miles of the highways hereinafter designated, and within a radius of 10 miles of the city limits of all municipalities which are listed below, regardless of their location.

1. U. S. Highway 99 between Bakersfield and Modesto, inclusive.
2. Between the points set forth in subparagraph 1 above, on the one hand, and on the other hand, points on and within 10 miles of the following highways:
 - (a) State Highway 65 between junctions with U.S. Highway 99 near Bakersfield and State Highway 198 near Exeter.
 - (b) State Highway 198 between junctions with State Highway 65 near Exeter and State Highway 41 near Lemoore, inclusive.
 - (c) Unnumbered highway known as Clovis Ave. between U.S. Highway 99 near Fowler and Clovis, inclusive.
 - (d) Unnumbered highway known as Jensen Ave. between Calwa and Sanger, inclusive.
 - (e) Unnumbered highway known as Manning Ave. between U.S. Highway 99 near Fowler and Reedley, inclusive.
 - (f) Unnumbered highway known as Mountain View Ave. and El Monte Way between U.S. Highway 99 near Selma and Dinuba, inclusive.
 - (g) Unnumbered highway known as Alta Ave. between U.S. Highway 99 near Goshen and Dinuba, inclusive.
 - (h) Unnumbered highway between Wasco and junction with State Highway 198 near Hanford, inclusive.

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3. Between all points set forth in subparagraphs 1 and 2(a) through (h), on the one hand, and Los Banos, Dos Palos, Gustine, Newman, Crows Landing and Patterson, on the other hand, including points located within a radius of 10 miles of the above points.

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 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.
8. Logs.

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9. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
10. Commodities likely to contaminate or damage other freight.
11. Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.
12. Live animals or pets.
13. Commodities of exceptional size or weight which by reason of such size or weight require the use of special equipment.

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