

ORIGINAL

Decision No. 61418

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
MORLEY M. KIEK and SYDNEY B. KIEK,
dba Truck-Rite Delivery Service, for
an in lieu certificate of public
convenience and necessity to operate
as a highway common carrier for the
transportation of property and to
extend its present certificate of
public convenience and necessity.

Application No. 42826

O P I N I O N

By the application herein, filed on November 3, 1960, applicants, doing business as a highway common carrier pursuant to authority from this Commission, seek an in lieu certificate of public convenience and necessity authorizing them to transport general commodities, with exceptions, to, from and between all points and places in the Los Angeles Basin region as hereinafter described.

Applicants propose to use any and all available public streets and highways between the points in the service area. Their present authority, Decision No. 54000, dated October 30, 1956, in Application No. 36230, authorizes them to transport general commodities with the same exceptions requested in the instant application, to, from and between all points and places in the Los Angeles Territory.

As justification for the granting of the requested authority, applicants allege that they have operated between the points proposed to be served as a permitted carrier; that subsequent to

the issuance of the original certificate they have received numerous requests from various shippers having movements of general commodities to, from and between the points and places located in the present service area; that during the past three years there has been an ever-increasing demand made upon them for the service herein proposed to be effected; that during the past few years and since the issuance of their original certificate there has been a substantial increase in population and industry at the points and places they presently serve and propose to serve; that since the commencement of their business they have enjoyed a steady growth to the point where the permits and certificates they now hold are not sufficient to sustain the services now performed or to be performed; and that the entire Los Angeles Basin region has become a single integrated economic and commercial area.

The service will be on call but will be conducted daily except Saturdays and Sundays between one or more of the points proposed to be served.

The applicants are a party to Western Motor Tariff Bureau, Inc., Agent, Local Joint and Proportional Freight Tariff No. 18-B, California P.U.C. No. 17, J. L. Beeler, Agent Series, in the publication of their rates and charges. In connection with the proposed service they will establish rates substantially in conformity with the rates presently published in the above-described tariff.

Applicants own and operate eleven pieces of revenue equipment. Their financial condition as of September 30, 1960, shows total assets of \$31,793 and liabilities of \$12,054. Their net profit for the nine months ending September 30, 1960, was \$25,499, before income taxes.

Applicants served copies of the application on all known competing carriers at the time they filed the application with the Commission. No objections have been received.

The Commission, having considered the matter, is of the opinion and finds and concludes that public convenience and necessity require that applicants be authorized to establish and operate a highway common carrier service as hereinafter set forth. An in lieu certificate will be granted for the purpose of clarification in place of applicants' present operating authority which will be canceled.

A public hearing is not deemed necessary.

Morley M. Kiek and Sydney B. Kiek 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 holders a full or partial monopoly of a class of business. 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

An application having been filed, the Commission having found that public convenience and necessity require that applicants be granted the authority they have requested, and based on said finding,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Morley M. Kiek and Sydney B. Kiek, authorizing them to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code, for the transportation of property between the points more particularly set forth in Appendix A and Appendix B 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:

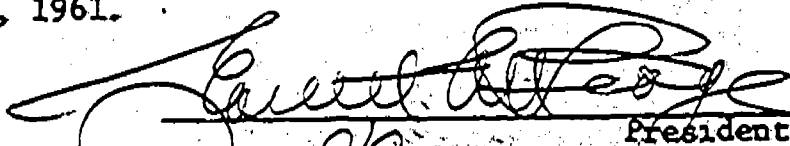
- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file 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 one hundred twenty 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 and timetables satisfactory to the Commission.

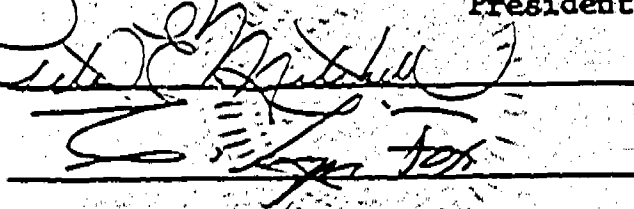
3. That the certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supersedes the certificate of public convenience and necessity granted by

Decision No. 54000, dated October 30, 1956, on Application No. 36230, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filing required by paragraph (2) (b) hereof.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1961.


President


Commissioners

Commissioners

Morley M. Kiek and Sydney B. Kiek, 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 within the Los Angeles Basin region as more particularly described in Appendix B attached hereto.

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 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.

End of Appendix A

Issued by California Public Utilities Commission.

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Appendix B

MORLEY M. KIEK
and
SYDNEY B. KIEK

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Los Angeles Basin region includes that area embraced by the following boundary: Beginning at the intersection of the westerly boundary of the city of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said city to its point of first intersection with the southerly boundary of Los Angeles and San Bernardino National Forests to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to and including the City of Redlands; westerly along U.S. Highway No. 99 to U.S. Highway No. 395; southerly along U.S. Highway No. 395 to State Highway No. 10; southwesterly along State Highway No. 10 to U.S. Highway No. 91; westerly along U.S. Highway No. 91 to State Highway No. 55; southerly along State Highway No. 55 to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to the point of beginning.

Issued by California Public Utilities Commission.

Decision No. 61418, Application No. 4226.