

Decision No. 61999**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 A & B GARMENT DELIVERY OF SAN FRANCISCO,  
 a corporation, for an expansion and  
 restatement of its certificate of public  
 convenience and necessity authorizing  
 highway common carrier service.

Application No. 42840

Daniel W. Baker, for applicant.

Roger L. Ramsey, for United Parcel Service;  
Bruce R. Geernaert, for California Motor  
 Transport, Inc., Valley Motor Lines, Inc.,  
 and Delta Lines, Inc.; Bruce R. Geernaert  
 and Lloyd Rasmussen, for Transbay Motor  
 Express Company, protestants.

O P I N I O N

A & B Garment Delivery of San Francisco holds authority for the transportation of hanging articles and small packaged shipments of freight between San Francisco, certain East Bay points, San Jose and points intermediate to San Francisco, Vallejo and Sacramento as stated in Decision No. 48808. These rights were expanded by Decision No. 51062 authorizing transportation of cartoned or crated wearing apparel, dry goods and miscellaneous articles between points in the San Francisco East Bay Cartage Zone; by Decision No. 52067 permitting hauling of a variety of articles which are generally merchandised by dry goods and clothing stores between San Francisco and San Jose and intermediate points; by Decision No. 56997 extending the last mentioned rights and the hanging garment authorities to an area encompassed by Sacramento, Stockton, Modesto, Monterey, Santa Cruz, Napa, San Rafael, and intermediate points and by Decision No. 60203 authorizing transportation of office and store furniture, equipment, supplies and advertising materials in mixed shipments with the previously named commodities between points in the San Francisco Territory.

By this application filed November 9, 1960, a certificate of public convenience and necessity is requested authorizing the transportation of general commodities except:

1. Used household goods and personal effects not crated.
2. Automobiles, trucks and buses and similar vehicles.
3. Livestock.
4. Refrigerated commodities.
5. Liquids, compressed gases and similar materials in bulk, in tank trucks.
6. Commodities in dump trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
  - a. Between all points in the San Francisco Territory and within five miles of the boundary thereof.
  - b. Between all points on and within five miles of eleven routes generally between San Francisco, Napa, Sonoma, North Sacramento, Sacramento, Pleasanton, Stockton, Port Chicago, Byron, Oakland, Pittsburg, Moraga, Warm Springs, Martinez, Modesto and Tracy.
  - c. Between all points within ten miles of Sacramento and Stockton.

Applicant also requests authority to reactivate service presently suspended to Napa and Sonoma and to abandon service now suspended south of San Jose and between Sunnyvale and Los Gatos.

Public hearings were held in San Francisco before Examiner Rowe on February 15 and 16, and on March 23, 24, 29, 30 and 31, 1961. On March 31, 1961, the matter was duly submitted for decision.

The application alleges that applicant possesses a substantial fleet of equipment suited for the operation proposed herein. Twenty-one truck vans are listed in an exhibit attached to the application, most with a carrying capacity of two tons with four varying by one-half ton. According to the testimony of the company's vice

president and general manager, all of these vehicles are outfitted for the transportation of garments on hangers. This is described as a permanent pipe weld in the roof of the van from side to side, and a support in the middle of the van on either side to support a second pipe side to side as a double deck.

The application further alleged that:

"Normally, prior to each expansion, as is also true in the instant matter, applicant has transported the shipments involved under its permitted rights. When operations grew to a point where doubt arose as to whether the then existing authorities were adequate, applications were filed which resulted in receipt of the certificates mentioned above. A & B Garment Delivery of San Francisco is presently rendering an extensive permitted service for the transportation of a large variety of commodities between its certificated points. The volume of this traffic has been increasing and to properly satisfy the anticipated future requirements for service and to assure the public of its permanency, the instant request is being filed."

In order to prove the existence of this public demand for the transportation of general commodities applicant produced eight public witnesses representing large distributors. Six of these firms shipped general commodities by this carrier along with their shipments of garments on hangers. One of the two remaining witnesses represented a shipper of shoes, hand accessory items and store supplies. No garments on hangers were shipped but applicant carried these articles in its van-type trucks equipped to transport garments on hangers. The other witness was a merchandise control clerk for a company distributing cosmetics, toilet preparations, luggage, and glassware. This witness, like the prior witness, preferred applicant's specialized same-day service, and had no objection to the use of applicant's trucks which were equipped to transport garments on hangers. One of the six witnesses representing firms which used applicant's service primarily to ship garments on hangers also used it to transport packaged goods for another company in which he was interested, which shipped no garments.

The three firms which used applicant to transport only packaged freight expressed no convincing reason for their preference

over many of the protestants. Protestant carriers expressed a willingness upon special request to accord same-day service.

The protestants described their operations as suffering from an excess of competition. Their load factor in every instance was described as low and each of them indicated a willingness and ability to transport more freight than is presently offered. The record contains little adverse criticism of the service rendered by applicant's competitors.

From a careful consideration of the entire record the Commission is of the opinion and finds that public convenience and necessity require that applicant be authorized to expand its highway common carrier service to permit it to carry general commodities in its special garment carrying vans which are equipped to transport garments on hangers. The record demonstrates that applicant has failed to establish that public convenience and necessity require that it transport commodities in other than its special van-type equipment or for shippers who do not also use applicant's service to transport garments on hangers. The Commission further finds that public convenience and necessity require that applicant restore its service to Napa and Sonoma and intermediate points but that public convenience and necessity no longer require its service south of San Jose and Sunnyvale. Applicant will be authorized to discontinue such service. The application will be granted to the extent set forth above and in all other respects will be denied.

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

A public hearing 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 A & B Garment Delivery of San Francisco, 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 Appendices A and B 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 one hundred and twenty 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.



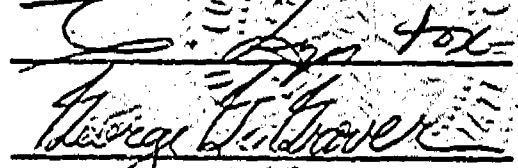
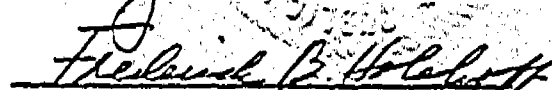
3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificates of public convenience and necessity granted by Decisions Nos. 56997, 58729, 60203 and 61197, which certificates are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

4. Decisions Nos. 58729 and 61197 shall remain in full force and effect to the extent they authorize applicant to publish certain rates and charges.

5. Except as provided in ordering paragraph 1 above, Application No. 42840 is denied.

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

Dated at San Francisco, California, this 16th day of May, 1961.

  
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President  
  
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Commissioners

A & B Garment Delivery of San Francisco, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as specified herein in van type trucks equipped to carry garments on hangers:

1. Between all points and places within San Francisco Territory as described in Appendix B attached hereto and within 5 miles of the boundary thereof.
2. Between all points and places on and within 5 miles laterally of the following highways:
  - a. U. S. Highway 101 between San Francisco and the junction of said highway with State Highway 37 one mile north of Ignacio, inclusive;
  - b. State Highway 37 between Ignacio Junction and Napa, inclusive, including the off-route point of Sonoma;
  - c. U. S. Highway 40 between San Francisco and North Sacramento, inclusive;
  - d. State Highway 29 between the junction of said highway with U. S. Highway 40 and Napa, inclusive;
  - e. U. S. Highway 50 between San Francisco and Sacramento, inclusive, including the off-route point of Pleasanton;
  - f. State Highway 4 between the junction of said highway with U. S. Highway 40 and Stockton, inclusive, including the off-route points of Port Chicago and Byron;
  - g. State Highway 24 between Oakland and Pittsburg, inclusive, including the off-route point of Moraga;
  - h. State Highway 21 between Warm Springs and Martinez, inclusive.

Issued by the Public Utilities Commission.

Decision No. 61999, Application No. 42840.

- i. U. S. Highway 99 between Stockton and Modesto, inclusive;
  - j. State Highway 33 between the junctions of said highway with U. S. Highway 50 near Tracy and State Highway 132 near Vernalis, inclusive; and
  - k. State Highway 132 between the junction of said highway with State Highway 33 near Vernalis and Modesto, inclusive.
3. Between all points and places within 10 miles of the City of Sacramento.
  4. Between all points and places within 10 miles of the City of Stockton.

Through routes and rates may be established between any and all points and places specified in paragraphs 1 through 4, inclusive.

Applicant may use any and all available alternate routes for operating convenience only.

Transportation of the commodities authorized in this appendix is limited to shippers who regularly ship garments on hangers by applicant.

Applicant shall not transport any shipments of 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.

End of Appendix A

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Decision No. 61999, Application No. 42840.



SAN FRANCISCO TERRITORY includes that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway No. 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway No. 101 to its intersection with the corporate boundary of the City of San Jose; southerly, easterly and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway No. 40 (San Pablo Avenue); northerly along U.S. Highway No. 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said water front and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.