

62103

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DEVINE & SON TRUCKING CO., a corpora-)
 tion, for a certificate of public)
 convenience and necessity to extend)
 highway common carrier service.)

Application No. 42833
 (Amended)
 Filed January 9, 1961

Willard S. Johnson, for applicant

O P I N I O N

This application was heard before Examiner Martin J. Porter at San Francisco on February 9, 1961, on which date it was submitted subject to the filing of an exhibit. Said exhibit has been received. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. There were no protests.

Applicant is a highway common carrier presently transporting lumber and forest products in shipments of 20,000 pounds or more between San Francisco and points in north central and northeastern California.

By Decisions Nos. 59847 and 60461 applicant was authorized to transport specific commodities between points including intermediate points, on or within 10 miles laterally of specific named highways.

The applicant's evidence was that the authority granted was restricted as to commodities and did not satisfy customer needs. The area granted, due to the fact that specific highways were named with a 10-mile lateral, does not permit applicant to serve important cities and areas in close proximity to the specific named highways and thus it is unable to meet its customers' requirements as a highway common carrier.

The applicant by the present amended application seeks, by naming more highway authority, to serve these cities and areas for the transportation of general commodities.

The applicant operates throughout the area herein sought as a permit carrier.

If the present amended application is granted applicant will be able to provide split pick-up and split delivery to its customers which it cannot do now if either the pick-up or delivery point is outside its certificated area.

For example, the cities of Pittsburg, Antioch and Walnut Grove are not within the present certificated area, although the carrier has customers within these cities who ship and receive iron and steel articles, roofing, building and paving materials and paper and paper products.

The carrier transports for governmental agencies and private individuals who deal in surplus property, which includes commodities broad in nature such as foodstuffs, drugs, chemicals and other items not named in the present certificate. Also applicant transports to commissaries and housing facilities at construction sites removed from the highway, in addition to construction materials, items such as food and clothing which are not presently authorized.

Exhibit No. 2 is a list of fifteen persons, showing the nature of their business, commodities shipped and received, and points from and to which shipments are made. It was stated that if these persons had been called as witnesses they would support the carrier's application. The list of commodities shipped and received is broad and the points to and from which shipments are made cover many of the points herein requested. They now use carrier's permitted service and would use the certificated service if granted.

Exhibit "D" attached to the application is a substantial list of carrier's equipment.

Exhibit "C" attached to the application shows for the period January 1, 1960 through September 30, 1960, net income before taxes of \$12,597.53.

Upon consideration of the evidence the Commission finds and concludes as follows:

Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

Public convenience and necessity require that the application be granted as set forth in the ensuing order.

O R D E R

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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Devine & Son Trucking Co., a corporation, authorizing the transportation of property as a highway common carrier as defined by Section 213 of the Public Utilities Code, between the points and over the routes as set forth in Appendices A and B attached hereto and made a part hereof.

2. In providing service pursuant to the certificate of public convenience and necessity 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 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. That Appendix A of Decisions Nos. 59845 and 60461 is amended by incorporating therein Second Revised Page 5 and First Revised Page 6 in revision of First Revised Page 5 and Original Page 6, respectively, and Original Pages 7, 8, 9, 10 and 11, all attached hereto.

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

Dated at San Francisco, California, this 6th day of June, 1961.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

B. Devine & Son Trucking Co. is hereby authorized to transport commodities described in paragraph A of this appendix, in shipments of 20,000 pounds or more or in shipments of less than 20,000 pounds when the minimum carload weight in the governing classification or exception sheet is less than 20,000 pounds:

1. Between all points and places on and within 10 miles laterally of U. S. Highway 99 between Castella, including Castella, and Hilt, but not including Hilt, and
2. Between all points and places included in subparagraph 1 above, on the one hand, and all points and places described in subparagraphs 1 through 45, inclusive, of paragraph C of this appendix, on the other hand.

C. Devine & Son Trucking Co. is hereby authorized to transport general commodities in shipments of 20,000 pounds or more or in shipments of less than 20,000 pounds when the minimum carload weight in the governing classification or exception sheet is less than 20,000 pounds; and pallets and empty containers for return revenue loaded movement or returning from loaded revenue movement, regardless of weight per shipment, between all points and places on and within 10 miles laterally of the following highways (See Exceptions 1 and 2):

1. U.S. Highway 40 between San Francisco and California-Nevada State Line, inclusive;
2. State Highway 24 between Oakland and Sacramento, inclusive;

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3. U.S. Highway 50 between San Francisco and California-Nevada State Line, inclusive;
4. State Highway 12 between Sebastopol and San Andreas, inclusive;
5. State Highway 8 between Stockton and Valley Springs, inclusive;
6. State Highway 104 between the junction of said highway with U.S. Highway 99 near Galt and Ione, inclusive;
7. U.S. Highway 40 Alternate between the junction of said highway with U.S. Highway 40 near Davis and Reno Junction, inclusive;
8. State Highway 88 between Ione and California-Nevada State Line, inclusive;
9. State Highway 16 between the junction of said highway with State Highway 20, approximately 18 miles southwest of Williams, and Drytown, inclusive;
10. Unnumbered county road between Sebastopol and the junction of said county road with State Highway 1 near Bodega, inclusive;
11. State Highway 1 between the junction of said highway with unnumbered county road near Bodega and Monterey, inclusive;
12. U.S. Highways 101 and 101 Bypass between Santa Rosa and Salinas, inclusive;
13. State Highway 29 between Vallejo and Calistoga, inclusive;
14. State Highway 21 between Mission San Jose and Cordelia, inclusive;
15. State Highway 4 between the junction of said highway with U.S. Highway 40 near Pinole and California-Nevada State Line, inclusive;
16. Unnumbered county road between Concord and Byron Junction, inclusive;
17. Unnumbered county road between Walnut Grove and Stockton, inclusive, via Thornton;

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18. State Highway 36 between Wildwood and Susanville, inclusive;
19. State Highway 32 between Orland and the junction of said highway with State Highway 36 approximately 13 miles southwest of Chester, inclusive;
20. Unnumbered county road between Chico and Prattville, inclusive, via Paradise and Longville;
21. Unnumbered county road between the junction of said county road with U.S. Highway 40 Alternate approximately 13 miles north of Marysville and Mohawk, inclusive, via La Porte;
22. Unnumbered county road between Oroville and Quincy, inclusive, via Meadow Valley;
23. U.S. Highway 395 between Hallelujah Junction and California-Oregon State Line, inclusive;
24. State Highway 89 between Tahoe Valley and the junction of said highway with U.S. Highway 99 near Mt. Shasta, inclusive;
25. State Highway 28 between Tahoe City and California-Nevada State Line, inclusive;
26. U.S. Highways 99, 99-E and 99-W between California-Oregon State Line and Modesto, inclusive;
27. State Highway 45 between Hamilton City and Knights Landing, inclusive;
28. Unnumbered county road between Willows and Maxwell, inclusive, via Elk Creek, Rockville and Sites;
29. Unnumbered county road between Williams and Lodoga, inclusive;
30. Unnumbered county road between Red Bluff and Elk Creek, inclusive, via Paskenta;
31. Unnumbered county road between Willows and Glenn, inclusive;

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32. State Highway 20 between Upper Lake and the junction of said highway with U.S. Highway 40 near Emigrant Gap, inclusive;
33. State Highway 49 between Jacksonville and Sattley, inclusive;
34. U.S. Highway 299 between Big Bar and Alturas, inclusive;
35. U.S. Highway 97 between Weed and California-Oregon State Line, inclusive;
36. State Highway 44 between Redding and Manzanita, inclusive;
37. State Highway 139 between Canby and California-Oregon State Line, inclusive;
38. State Highway 17 between Oakland and Santa Cruz, inclusive;
39. State Highway 9 between Oakland and Santa Cruz, inclusive;
40. State Highway 5 between San Francisco and the junction of said highway with State Highway 9 near Saratoga, inclusive;
41. State Highway 132 between Vernalis and Coulterville, inclusive;
42. State Highway 120 between Mossdale Wye and the junction of said highway with State Highway 49, three miles southwest of Jamestown, inclusive;
43. Unnumbered county road between Coulterville and Jacksonville, inclusive;
44. State Highway 128 between Rutherford and Davis, inclusive; and
45. State Highway 37 between the junction of said highway with State Highway 128, eighteen miles east of Rutherford, and Ignacio, inclusive.

Exception 1: No local service for the transportation of other than lumber or forest products in shipments of 20,000 pounds or more shall be rendered between points and places in San Francisco-East Bay Cartage Zone as described in Appendix B attached hereto, on the one hand, and points and places in Marin, Sonoma and Napa Counties north of San Rafael, on the other hand.

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Exception 2: Service from, to or between points on and within 10 miles laterally of U.S. Highway 99 between Castella, including Castella, and Hilt, but excluding Hilt, shall be restricted to the transportation of those commodities and quantities as are provided in paragraphs A and B of this appendix.

Through routes and rates may be established between any and all points and places specified in subparagraphs 1 through 45, inclusive, of paragraph C of this appendix.

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 semiplastic 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.

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7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
 8. Logs.
 9. Fresh or green fruits and fresh or green vegetables having origin in fields of growth and consigned to cold storage, canneries, packing sheds, packing houses, or other processing facilities, or consigned to reshipping points.
 10. Cans, iron or steel, tin plated or not tin plated, with or without ends.
 11. Cotton and cotton linters.
 12. Wood chips.
 13. Commodities which because of length, height, width or weight ordinarily require the use of specialized equipment or service, or the issuance of special highway permits by the State of California.
- D. Devine & Son Trucking Co. is hereby authorized to transport lumber and forest products (excluding wood chips) in shipments of 20,000 pounds or more between all points and places on and within 50 miles laterally of the following highways:
1. U.S. Highways 99-E and 99-W between Red Bluff and the junctions of said highways with U.S. Highway 40, inclusive;
 2. State Highway 36 between Red Bluff and Susanville, inclusive, (no service shall be provided from, to or between points more than 10 miles north of State Highway 36);
 3. State Highway 24 between Sacramento and Marysville, inclusive;
 4. U.S. Highway 40 Alternate between the junction of said highway with U.S. Highway 40 near Davis and Reno Junction, inclusive.

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5. State Highway 49 between Sattley and Jackson, inclusive;
6. State Highway 29 between Lakeport and the junction of said highway with State Highway 20 near Upper Lake, inclusive;
7. State Highway 20 between Upper Lake and the junction of said highway with U.S. Highway 40 near Emigrant Gap, inclusive;
8. U.S. Highway 40 between San Francisco and California-Nevada State Line, inclusive; and
9. U.S. Highway 50 between San Francisco and California-Nevada State Line, inclusive.

Through routes and rates may be established between all points and places specified in subparagraphs 1 through 9, inclusive, of paragraph D of this appendix. Except as provided in Exception 2 of paragraph C of this appendix, through routes and rates may also be established between all points and places specified in subparagraphs 1 through 9, inclusive, of paragraph D, on the one hand, and all points and places specified in subparagraphs 1 through 45, inclusive, of paragraph C, on the other hand.

End of Appendix A

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APPENDIX B TO DECISION NO. 62102

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary:

Beginning at the point where the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to So. Mayfair Avenue; thence westerly along said So. Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U. S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U. S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U. S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9; thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland boundary line to its intersection with the Alameda-Contra Costa County boundary line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U. S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U. S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U. S. 40; thence northerly along Highway U. S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence

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westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right of way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco Waterfront at the foot of Market Street; thence westerly along said waterfront and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.