

ORIGINALDecision No. 63574

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 E. A. C. TRANSPORTATION COMPANY, a)
 corporation, for an in lieu certifi-)
 cate of public convenience and)
 necessity to render service as a)
 highway common carrier.)

Application No. 44195
 Filed February 16, 1962

O P I N I O N

E. A. C. Transportation Company, a corporation, is engaged in the transportation of general commodities between points in California as a certificated highway common carrier. The applicant is now operating under certificates which have been granted or transferred to the applicant under Decisions Nos. 47450 (in Application No. 32628), 51312 (in Application No. 36774), 56070 (in Application No. 39612), 59500, as amended by Decision No. 59704 (in Application No. 41502), 60774 (in Application No. 42606) and 62712 (in Application No. 43800).

This application was filed to request that all of the operating authorities now held by the applicant be combined and reissued in a single certificate.

Notice of the filing of the application was given to ten highway common carriers who operate in the area presently served by the applicant. A protest was filed but it was withdrawn as soon as it became evident the applicant was not seeking an extension of authority nor the right to transport any additional commodities.

The application further requests that certain commodities the applicant is now authorized to transport be excluded from the proposed certificate. The items to be eliminated are "(1) fruits

and vegetables having origin in fields of growth or from cold storage plants to cold storage plants, canneries, packing sheds, packing houses or other processing facilities, and (2) cans, metal, tin plated or not tin plated, with or without ends." The application states that the applicant has not hauled these commodities.

The Commission finds that public convenience and necessity require that the application be granted and that the applicant's operating authorities be combined in one certificate, with the requested commodities excluded therefrom. A public hearing is not necessary.

H. A. C. Transportation Company is 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to H. A. C. Transportation Company, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes more particularly set forth in Appendices A and B attached hereto and hereby 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-B. 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-B, may result in a cancellation of the operating authority granted by this decision.
- b. Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs satisfactory to the Commission, which tariff filings shall be made effective concurrently with the establishment of the service and on not less than thirty days' notice to the Commission and to the public. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by H. A. C. Transportation Company and presently possessed by it, 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.

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

Dated at San Francisco, California, this 17th day of April, 1962.

 President
Dwight E. McKeage
E. Leo Fox
George L. Chover
Frederick B. H. H. H. Commissioners

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

H. A. C. Transportation Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

1. Between all points and places in the San Francisco Territory as described in Appendix B attached hereto.
2. Between the San Francisco Territory, on the one hand, and the following points, on the other hand:
 - a. Points within a five-mile radius of the Pleasanton post office.
 - b. Points within a five-mile radius of the city limits of Livermore.
 - c. Points on and within one mile laterally of U.S. Highway 50 between Dublin and Livermore, inclusive.
 - d. Points on State Highway 24 between Oakland and Walnut Creek, inclusive.
 - e. Points on State Highway 21 between Walnut Creek and Dublin, inclusive.
 - f. Points on unnumbered county highway known as Crow Canyon Road between San Ramon and Castro Valley, inclusive.
3. Applicant may operate over and along any public highway, road or street between the areas described for operating convenience only.
4. The operating authorities hereinabove set forth in paragraph 2 do not include the right to render service to, from or between intermediate points on U.S. Highway 50 between Dublin and Castro Valley, on State Highway 21 between Dublin and Mission San Jose nor on unnumbered county highway between Sunol and Niles, except as otherwise provided.

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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. 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.
3. 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.
4. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
5. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
6. Logs.
7. Fruits and vegetables having origin in fields of growth, or from cold storage warehouses consigned to cold storage plants, canneries, packing sheds, packing houses or other processing facilities.
8. Cans, metal, tin plated or not tin plated, with or without ends.

End of Appendix A

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SAN FRANCISCO TERRITORY includes all the City of San Jose and 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 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestwardly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 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 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwestwardly 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 waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.