

Decision No. 63852

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WILLIAM B. WALTON, an individual,)
 doing business as WALTON DRAYAGE &)
 WAREHOUSE CO., for an expansion and)
 restatement of its certificate of)
 public convenience and necessity)
 authorizing highway common carrier)
 service.)

Application No. 44182
 (as amended)
 (Filed February 13, 1962)

Dan Baker, for applicant.
Boris Lakusta, Raymond A. Green and
Robert L. Harmon, for Blankenship
 Motors, Inc., California Motor
 Transport Co., California Motor Express,
 Ltd., Delta Lines, Inc., Di Salvo
 Trucking, Fortier Transportation Company,
 Garden City Transportation Co., Interlines
 Motor Express, Merchants Express of
 California, Valley Motor Lines, Inc.,
 Willig Freight Lines, Oregon-Nevada-
 California Fast Freight, and Southern
 California Freight Lines, protestants.

O P I N I O N

This application was heard before Examiner Rowe in Oakland on March 20, 21 and 23, 1962 and in San Francisco on April 19 and May 7, 1962, on which latter date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules.

Applicant is a highway permit and a highway common carrier. In the latter capacity he transports general commodities between points and places in the San Francisco-East Bay Cartage Zone. By this application he requests authorization to extend his highway common carrier operations down the peninsula to Los Gatos and San Jose, north to Ignacio and to Vallejo, and east to Richmond, Antioch, Livermore, Mission San Jose and Martinez.

Applicant has been in the warehouse and trucking business for approximately thirty years. In his trucking operations, he has been providing generally a same-day delivery service which has been profitable and expanding. At present applicant has some fifty warehouse users. Also, he has several hundred drayage customers. His trucking equipment consists of fifteen units, eight of which are equipped with power tail gates.

Applicant's witnesses, fifteen in all, testified they needed applicant's same-day efficient service, and desired that it be extended to the points named and to intermediate points as proposed. Applicant contended that this expanded area, involving service between points seventy or more miles apart, should be considered a drayage area. This is unsupported by the evidence.

The general manager of applicant testified that his company competes with other warehousemen in the East Bay area who also transport property pursuant to highway common carrier certificates issued by the Commission. These certificates are said to permit such competitors to handle split delivery shipments between all points involved in this application as single shipments. Applicant's warehouse customers indicated a need for this service. The Commission finds that applicant should be placed upon an equality with such competitors.

Protestants presented evidence to the effect that they are rendering an adequate highway common carrier service in this area. It appears from the record herein that the shippers who use applicant's transportation service, except those who employ his warehouse facilities too, can procure all the service they reasonably need from existing certificated carriers or from applicant as a permitted carrier.

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

Commission so finds. Applicant has failed to establish that public convenience and necessity require the balance of the proposed service. The Commission further finds that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the service hereinafter authorized.

O R D E R

An application having been filed and based upon the above findings,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to William B. Walton, authorizing the transportation of property described in the following Appendices A, B and C, 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 said appendices.
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 he will be required, among other things, to file annual reports of his 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.

(c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.

(d) 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 is in lieu of and supersedes the certificate of public convenience and necessity granted by Decision No. 50986 dated January 18, 1955, in Application No. 35171, which certificate is hereby canceled and 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 26th day of JUNE, 1962.

President

Commissioners

William B. Walton, 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-East Bay Cartage Zone as described in Appendix B attached hereto.
2. Between Alameda, on the one hand, and the following, on the other hand:
 - a. All points and places in the San Francisco Territory as described in Appendix C attached hereto.
 - b. All points and places on and within five miles laterally of the following highways:
 - (1) U.S. Highway 101 between San Francisco and Novato, inclusive.
 - (2) State Highway 17 between San Rafael and Richmond, inclusive.
 - (3) U.S. Highway 40 between Richmond and Vallejo, inclusive.
 - (4) State Highway 4 between its junction with U.S. Highway 40 near Pinole and Antioch, inclusive.
 - (5) State Highway 24 between Oakland and Antioch, inclusive.
 - (6) U.S. Highway 50 between Hayward and Livermore, inclusive.
 - (7) State Highway 21 between Fremont and Martinez, inclusive.

Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraph 1 and 2.

Issued by California Public Utilities Commission.

Decision No. 63852, Application No. 44182.

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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
4. 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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Fresh fruits and vegetables.
9. Articles of extraordinary value as set forth in Rule 5 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.

End of Appendix A

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Decision No. 63852, Application No. 44182.

APPENDIX B TO DECISION NO. 62852

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 Lynnwood 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

APPENDIX B TO DECISION NO. 63852

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.

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; southwestwesterly 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; southwestwesterly 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.