

ORIGINAL

Decision No. 64482

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EDWARD T. MOLITOR for a certificate of public convenience and necessity to operate as a highway common carrier, generally, of garments on hangers to and between certain points in San Diego County as an extension of existing service.

Application No. 44585

(Filed June 25, 1962)

R. H. Molitor, for applicant.

O P I N I O N

This application was heard before Examiner Robert D. De Wolf at San Diego on August 15, 1962, on which date it was submitted. Copies of the application and notice of hearing were served in accordance with the Commission's procedural rules. There were no protests.

Applicant is a highway common carrier, generally, of garments on hangers between Los Angeles, San Diego, La Mesa, El Cajon, Lemon Grove, National City, Chula Vista, Palm City and Coronado, as more specifically set forth in Decision No. 49161, dated September 29, 1953, in Application No. 34430, and has been authorized to establish joint rates with A & B Garment Delivery of San Francisco between San Diego, Bakersfield, Fresno, San Francisco and Sacramento (Decision No. 51927, dated September 6, 1955, in Application No. 37144).

This applicant also holds certificate of public convenience and necessity issued to him by the Interstate Commerce

Commission, authorizing the transportation of general commodities, with certain exceptions, between San Diego, California, and the International Airport, Los Angeles, California, serving the intermediate and off-route points of Carlsbad, Encinitas, Oceanside, San Clemente, Lockheed Air Terminal at Burbank, and Long Beach Airport at Long Beach. Said authority is restricted to service for shipments having an immediately prior or immediately subsequent movement by air to or from said Los Angeles International Airport, Lockheed Air Terminal, or Long Beach Airport.

Applicant requests a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code of the State of California to extend his present service authority within said San Diego County to include:

(a) Motor delivery service between San Diego, Del Mar, Solana Beach, Rancho Santa Fe, Escondido, San Marcos, Vista, Oceanside, Carlsbad, Leucadia, Encinitas, and Cardiff-by-the-Sea, and service between said towns.

(b) The proposed service is to be daily, except Saturdays, Sundays and holidays, between San Diego and the above-named towns in the proposed area via all available streets, boulevards, roads and highways for the pickup and delivery of garments and wearing apparel for transportation on hangers.

Applicant proposes to establish the same rates for the area of the proposed service as those he has published and which he now charges for like service or shipments in this area.

Applicant's Evidence

Applicant testified that he is now conducting daily service under his present certificate. He has motor equipment

consisting of three semitrailers, three tractors, and five power trucks which are fully paid for and which have been operated without serious accidents. He employs six full-time and two part-time drivers, three full-time and two part-time office help, and he does the mechanical work himself. He testified that there is no other service in the area catering to garments on hangers exclusively, as he does. Applicant further testified that his financial position has improved since the financial statement attached to the application, and that business has increased 6.4 percent in tonnage and 14 percent in revenue in 1962 over 1961. The financial position of the company is good.

Applicant presented four shipper witnesses who are engaged in business in the new territory (one in three locations). They testified that they were in great need of the services to be supplied by applicant; that no similar service is now available to the clothing dealers in the area, and that they all will use the service. These four shippers are presently using United States mail parcel post and United Parcel Service and other services, all of which require the merchandise to be flat packed in cartons which results in additional cost because of necessary pressing and packaging. All of said shipper witnesses represented substantial businesses in operation in the area for more than four to ten years, and do a volume of business of from \$100,000 to \$250,000 per year. One of said shipper witnesses represented a national manufacturer of men's clothing, doing a \$16,000,000 annual gross business, \$1,000,000 of which is in San Diego in a two-block, four-story plant, with 1,200 employees.

Applicant testified that he made a survey of the area and found not less than 27 other businesses in the area who stated they would use the service and would write letters or testify, if needed, to secure the service, and applicant listed names and addresses of these businesses.

Findings

Upon consideration of the evidence, the Commission finds as follows:

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

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

Edward T. Molitor 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

Public hearing having been held, and based on the evidence therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity be and it is granted to Edward T. Molitor authorizing him 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 Appendix A attached hereto and hereby made a part hereof.

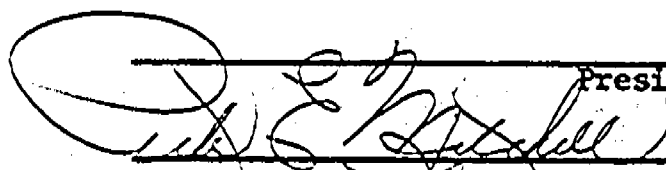

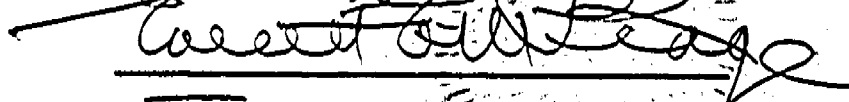

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (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 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 ten 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-A.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order supersedes the certificate of public convenience and necessity granted by Decision No. 49161, dated September 29, 1953, in Application No. 34430, which certificate is hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2 hereof.

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

Dated at San Francisco, California, this 30th day of OCTOBER, 1962.

  
 \_\_\_\_\_ President  
  
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 \_\_\_\_\_ Commissioners

Edward T. Molitor, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport garments, clothing, and wearing apparel when transported on garment hangers, and merchandise incidental thereto shipped in company therewith in packages weighing not more than eight pounds, between manufacturers, wholesalers and retailers located in Los Angeles, San Diego, La Mesa, El Cajon, Lemon Grove, National City, Chula Vista, Coronado, Palm City, Del Mar, Solana Beach, Rancho Santa Fe, Escondido, San Marcos, Vista, Oceanside, Carlsbad, Leucadia, Encinitas and Cardiff-by-the-Sea. Applicant may operate over any and all available highways for operating convenience only. The operating authority hereinabove set forth does not include the right to render service to, from or between intermediate points not named herein.

Issued by California Public Utilities Commission.

Decision No. ~~64482~~, Application No. 44585.