

**ORIGINAL**

Decision No. 76177

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of PENINSULA DELIVERY SERVICE, a )  
California corporation, to Sell, )  
and AERO SPECIAL DELIVERY SERVICE, )  
INC., a California corporation, to )  
Purchase a highway common carrier )  
certificate of public convenience )  
and necessity, pursuant to Sections )  
851-853 of the California Public )  
Utilities Code, and the latter to )  
issue stock. )

Application No. 51161  
(Filed June 12, 1969)

O P I N I O N

By their application, as amended, Peninsula Delivery Service requests authority to sell and transfer, and Aero Special Delivery Service, Inc., requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier. Authority is also requested by Aero Special Delivery Service, Inc., to issue 5,989 shares of common stock at \$10 per share as working capital and to execute a promissory note in the amount of \$9,000.

The certificate was granted by Decision No. 60188, dated May 24, 1960, in Application No. 41899, and authorizes the transportation of general commodities between all points within its San Francisco territory. The agreed consideration for the transfer is \$34,000. A value of \$2,000 is placed upon the certificate herein considered, a value of \$7,000 upon corresponding interstate authority, a value of \$1,000 upon permitted authority and a value of \$24,000 upon good will. The consideration is to be paid as follows: a cash payment of \$15,000 and the balance to be secured by a promissory note payable

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in monthly installments of \$525, with interest at the rate of 6 percent per annum. Transfer of the interstate authority was authorized by the Interstate Commerce Commission on March 18, 1969.

Applicant purchaser operates 33 units of equipment. It owns 21 units and leases 12 units. As of June 30, 1969, applicant purchaser indicated a net worth in the amount of \$85,086.

It is alleged that Harold L. Robertson, president of applicant seller, is in poor health and has been advised by his physician to disassociate himself from his trucking business.

Applicant purchaser proposed to adopt the rates contained in Peninsula Delivery Service's present tariffs for the conventional highway common carrier service.

Aero Special Delivery Service, Inc., has in the past and is presently, pursuant to its permitted authority, performing an expedited delivery service. It alleges the minimum rates have proved noncompensatory for said expedited service. Without objection from its shippers, Aero Special Delivery Service, Inc., has assessed and collected rates and charges higher than the minimum rates for said service. Aero Special Delivery Service, Inc., desires to continue the expedited delivery service. Upon transfer of the certificate herein considered the aforementioned expedited service would come within the purview of said authority. Aero Special Delivery Service, Inc., proposes to assess rates and charges as set forth in Exhibit D attached to the application, which are the same as those presently being assessed for the expedited service.

The application was listed on the Commission's Calendar of June 13, 1969. No protests have been received.

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After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the money, property or labor to be procured and paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The proposed rates and charges in Exhibit D are just and reasonable. A public hearing is not necessary. The order which follows will provide, in the event the transfer is consummated, the revocation of the certificate presently held by Peninsula Delivery Service and the issuance of a certificate in appendix form to Aero Special Delivery Service, Inc.

Aero Special Delivery Service, Inc., 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.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1970, Peninsula Delivery Service may sell and transfer, and Aero Special Delivery Service, Inc., may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules and shall publish the rates, charges and provisions shown in Exhibit "D" of the application. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Aero Special Delivery Service, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in paragraph 4 of this Order shall supersede the certificate of public convenience and necessity granted by Decision No. 60188, dated May 24, 1960, in Application No. 41899, which certificate is revoked concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

8. Within thirty days after the effective date hereof, purchaser shall file a written acceptance of the certificate, the transfer of which is herein authorized. Purchaser is placed on notice that, if it accepts such certificate, it will be required, among other things, to comply with and observe the safety rules of

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the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.

9. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

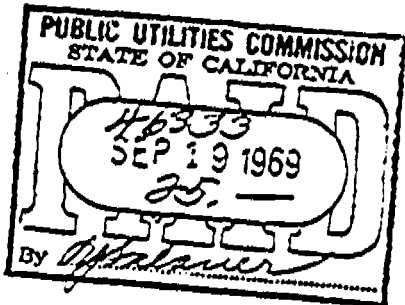
10. After the effective date hereof applicant purchaser is authorized to issue 5,989 shares of its common stock.

11. After the effective date hereof applicant purchaser is authorized to execute a promissory note in the amount of \$9,000.

12. Applicant shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00. In other respects the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 11th day of SEPTEMBER, 1969.



Handwritten signatures of William J. ... President and several Commissioners.

Aero Special Delivery Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport general commodities from, to and between all points and places located in the following areas and along the following routes:

1. The San Francisco-East Bay Cartage Zone, including 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 South Mayfair Avenue; thence westerly along said South 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

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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 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.

2. Between San Mateo and San Jose and intermediate points on U. S. Highways 101 and 101 By-pass, between Hayward and San Jose and intermediate points on State Highways 9 and 17, and between all points laterally within 5 miles of said highways.
3. Service to be performed between certificated points via any and all available streets and highways including all connecting streets and highways.

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Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packaged in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
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, 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 refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or dump trailers, dump semitrailers, including hopper type vehicles, or a combination of such highway vehicles.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Trailer Coaches or Campers.
10. Portland or similar cements, either alone or in combination with lime or powdered limestone by highway vehicle or vehicles loaded substantially to capacity.

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