

ORIGINAL

Decision No. 79454

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
WALTON DRAYAGE & WAREHOUSE CO., INC.,
for a certificate of public conven-
ience and necessity to extend highway
common carrier service.

Application No. 52781
(Filed July 30, 1971;
Amended August 26, 1971)

O P I N I O N

Applicant is presently engaged in the transportation of general commodities, with certain exceptions, throughout the Bay Area, under authority of Decision No. 50986, in Application No. 35171; Decision No. 63852, as amended by Decision No. 64680, in Application No. 44182; Decision No. 64844, in Application No. 45008; and Decision No. 66332 in Application No. 44182. Applicant also holds and operates under radial highway common carrier and highway contract carrier permits issued by this Commission.

Applicant applied on July 30, 1971 for an in lieu certificate to extend highway common carrier service to Novato, Vallejo, Napa, Fairfield, Antioch, Oakley, Brentwood, Livermore, and down Highway 101 to Gilroy. Several carriers threatened to protest, but withdrew after applicant filed an "Amendment to Application" on August 26, 1971 which eliminated Interstate Highway 80 between Vallejo and Fairfield, along with State Highway 29 between Vallejo and Napa, inclusive.

Applicant filed one copy of its amended application with the Interstate Commerce Commission under Section 206(a) of the Interstate Commerce Act. Applicant requests authority to serve the proposed area in interstate or foreign commerce as well as intrastate. Notice of this application as amended appeared in the Federal Register on September 29, 1971 and no protests have been received.

Applicant will provide service on Monday through Friday, with same-day or overnight service depending upon when the goods to be delivered are received. Applicant is now a participating carrier in Pacific Motor Tariff Bureau, Inc's. Local Freight and Express Tariff No. 8-A. This tariff will also be extended to the proposed service. Applicant's Statement of Financial Position as of December 31, 1970, shows total assets of \$206,434, current liabilities of \$51,874 and stockholders equity of \$154,560. Net income for 1970 is given as \$25,367, out of a total operating revenue of \$371,088. Applicant's operating equipment includes 3 tractors, 9 bobtail van trucks, 2 flatrack semitrailers, 2 van semitrailers and a pickup. It is alleged that applicant has operated in the San Francisco area since 1947 and that the needs of its shippers now require a further expansion of applicant's service.

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 and that an in lieu certificate be issued which authorizes applicant to engage in intrastate, interstate and foreign commerce as specified in the order which follows.
3. Public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order.

Walton Drayage & Warehouse Co., 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Walton Drayage & Warehouse Co., 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 and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

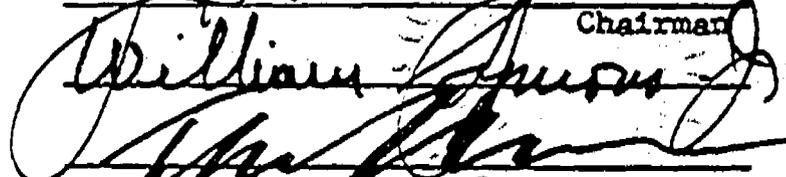
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-F.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend its tariffs on file to reflect the authority granted herein.
- (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-A.
- (e) Applicant 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.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of general commodities heretofore granted to or acquired by Walton Drayage & Warehouse Co., Inc., and presently possessed by it, which certificates are revoked 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 Los Angeles, California, this 14th day of DECEMBER, 1971.


 _____ Chairman




 _____ Commissioners

Walton Drayage & Warehouse Co., Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

1. Between all points and places on and within ten miles laterally of the following routes:
 - (a) U. S. Highway 101 between Novato and Gilroy, inclusive.
 - (b) State Highway 17 between San Rafael and San Jose, inclusive.
 - (c) Interstate Highway 80 between San Francisco and Vallejo, inclusive.
 - (d) State Highway 4 between Pinole and Brentwood, thence via Walnut Boulevard and Vasco Road to Livermore, inclusive.
 - (e) State Highway 24 between Oakland and junction with State Highway 4 near Concord, thence via said State Highway 4 to Antioch, inclusive.
 - (f) Interstate Highway 580 between Oakland and Livermore, inclusive.
 - (g) Interstate Highway 680 between Vallejo and Warm Springs, inclusive.

Applicant in performing the service herein authorized, may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

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Applicant shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
2. Livestock set forth in Item 40 of Minimum Rate Tariff 3-A.
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 semi-trailers 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. Property of extraordinary value set forth in Item 780 of National Motor Freight Classification A-12, William Herbold, Issuing Officer, on the issue date thereof.

(END OF APPENDIX A)

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