

Decision No. 79746

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
KELLER'S FREIGHT LINE, a corporation,
for a certificate of public convenience
and necessity to extend highway common
carrier service.

Application No. 52904
(Filed October 4, 1971;
Amended December 24, 1971)

O P I N I O N

Applicant is presently engaged in the transportation of general commodities, with certain exceptions, as a highway common carrier within the San Francisco Bay Area from Santa Rosa and Richmond on the north to San Jose on the south, under authority of Decision No. 60082, as amended by Decision No. 60609, in Application No. 41850, and Decision No. 60554, in Application No. 42403. Said authority was transferred from W. J. Keller, an individual, to applicant by the latter decision. Applicant also operates pursuant to radial highway common carrier and highway contract carrier permits issued by this Commission.

By the application herein, filed October 4, 1971, applicant seeks authority to extend highway common carrier service to Sonoma, Vallejo, Napa, Fairfield, Tracy, Los Gatos and various intermediate points and an in lieu certificate to restate its entire authority. Applicant requests authority to serve the proposed area in interstate or foreign commerce as well as intrastate. A copy of said application has been filed with the Interstate Commerce Commission under Section 206(a)(6) of the Interstate Commerce Act, and notice thereof appeared in the Federal Register on October 20, 1971. Several carriers informed the Commission of their intent to protest the sought authority. Said carriers withdrew their objection after applicant filed an amendment to the application on December 24, 1971. Said amendment adds a restriction relating to the transportation of commodities in cargo containers and eliminates the proposed service

via Interstate Highway 80 between Vallejo and Fairfield, via U. S. Highway 50 between Livermore and Tracy, via California Highway 12 between its junctions with California Highway 29 and Interstate Highway 80 and via California Highway 4 between Antioch and Tracy. No other protests have been received.

Applicant will provide service on Monday through Friday, with same-day or overnight delivery depending on when the goods to be delivered are received and the points involved. Applicant is now a participating carrier in the bureau tariffs of Pacific Coast Tariff Bureau and proposes to publish rates, rules and regulations for the sought additional service therein. Applicant's Statement of Financial Position as of July 31, 1971, shows total assets of \$506,128, total liabilities of \$203,029 and stockholders' equity of \$303,099. Its net income after provision for Federal Income Taxes and its gross operating revenue for the first seven months of 1971 were \$4,663 and \$435,463, respectively. Applicant's operating equipment includes 9 tractors, 18 trucks, 11 trailers and 3 dollies. It is alleged that applicant and its predecessor have operated in the San Francisco area for many years 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 applicant's service for the transportation of general commodities specified in Appendix A moving in intrastate, interstate and foreign commerce between the points as set forth in Appendices A and B.
3. Public hearing is not necessary.

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

Keller's Freight Line, a corporation, 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 Keller's Freight Lines, 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 Appendices A and B 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-Series.
 - (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 Keller's Freight Line, a corporation, 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 San Francisco, California, this 23rd day of FEBRUARY, 1972.

William L. Simon Chairman
Mr. [Signature]
James L. Stinson
[Signature] Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Keller's Freight Line, 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 in Section 213 of the Public Utilities Code, for the transportation of general commodities:

1. BETWEEN all points and places in the San Francisco-East Bay Cartage Zone as described in Appendix B attached hereto.
2. BETWEEN all points and places on and within 10 miles of the following routes:
 - a. U.S. Highway 101 between Santa Rosa and San Jose, inclusive.
 - b. State Highway 17 between San Rafael and Los Gatos, inclusive.
 - c. Interstate Highway 80 between San Francisco and Vallejo, inclusive.
 - d. U.S. Highway 50 between Hayward and Livermore, inclusive.
 - e. State Highway 12 between Santa Rosa and junction with State Highway 29, inclusive.
 - f. State Highway 4 between Pinole and Antioch, inclusive.
 - g. State Highway 24 between Oakland and junction with State Highway 4, inclusive.
 - h. Interstate Highway 680 between Vallejo and Warm Springs, inclusive.
 - i. State Highway 29 between Vallejo and Napa, inclusive.

RESTRICTION: Commodities when transported in cargo containers shall be transported only over Routes (2a) and (2b) above, and between points and places within 10 miles of said routes.

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

Issued by California Public Utilities Commission.

Decision No. 79746, Application No. 52904.

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 Item No. 5 of Minimum Rate Tariff 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, truck and trailers combined, buses and bus chassis.
3. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
4. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
5. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Articles of extraordinary value.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 79746, Application No. 52904.

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 Lynnewood 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

Issued by California Public Utilities Commission.

Decision No. 79746, Application No. 52904.

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 20 (Contra Costa County); thence westerly along County Road 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 shoreline of San Pablo Bay; thence southerly and westerly along the shoreline 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 shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 79746, Application No. 52904.