

Decision No. 80802

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
S & C FREIGHT LINES, INC., for a)
certificate of public convenience)
and necessity authorizing trans-)
portation of general commodities)
between points within the San)
Francisco Territory and areas)
adjacent thereto.)

Application No. 53468
(Filed July 19, 1972;
Amended October 19, 1972)

O P I N I O N

By this application, as amended, applicant seeks a certificate of public convenience and necessity to transport general commodities with certain exceptions in intrastate, interstate, and foreign commerce between all points and places in the San Francisco Territory and points within five miles thereof. The San Francisco Territory covers generally the area surrounding San Francisco Bay. A copy of the 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 August 2, 1972.

Applicant operates pursuant to highway contract carrier and radial highway common carrier permits. These authorities authorize transportation of general commodities, with the usual exceptions, between points in California.

Applicant's operating equipment consists of eight van trucks and a pickup truck. Applicant's balance sheet as of March 31, 1972 shows total assets of \$70,754.06, total liabilities of \$46,654.99 and capital of \$24,099.07. Applicant's statement of earnings for nine months ended March 31, 1972 discloses net earnings of \$12,099.07.

Applicant alleges that public convenience and necessity require the proposed service for the following reasons:

As a result of a recent survey of the applicant's transportation records and operations, a Commission investigator was of the opinion that the applicant might be operating beyond the scope of its permitted authorities and should consider applying for a highway common carrier certificate. This opinion was confirmed in an advisory conference with members of the Commission's staff held on April 18, 1972. This application was filed as a result of the investigation and opinion. The sought authority will assure applicant of continued ability to serve its customers in the future, as it has in the past. Certain of these customers have been served by the applicant and its predecessor, a sole proprietorship, for a number of years. Their shipping requirements have consistently increased, affecting the regularity of service and volume of business enjoyed by applicant. By grant of the authority requested herein, applicant will be able to render a service that will meet the requirements of its shippers and will permit it to continue to experience an orderly growth in the future, as it has in the past. Applicant proposes to perform service in intrastate, interstate and foreign commerce.

The proposed transportation will be daily, Monday through Friday. Time-in-transit for the service will be both same day and overnight, depending upon the time of day requests for service are received. The rates to be assessed will be on the same scale as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs. Tariffs containing such rates and related rules and regulations will be filed upon receipt of the certificate sought by this application.

There are no protests to the granting of the application.

After consideration, the Commission finds that:

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

2. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein.

3. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description of the authority granted herein reflects the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation published in the Federal Register.

Applicant 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, these rights extend to the holder a full or partial monopoly of a class of business. 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 S & C Freight Lines, Inc., 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.

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 file tariffs, in triplicate, in the Commission's office.
- (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-Series.
- (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.

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

Dated at San Francisco, California, this 12th day of DECEMBER, 1972.

I dissent:



Commissioner

Vernon L. Shingler
President

William J. ...

[Signature]

Commissioners

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

S & C Freight Lines, Inc., 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:

- I. Between all points and places in the San Francisco Territory, as described in Note A, and all points within five miles of any point therein.
- II. 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.

Except carrier 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. 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 and trailers combined, buses and bus chassis.
3. 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.

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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. Articles of extraordinary value.
9. Fresh fruits and vegetables.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Note A

SAN FRANCISCO TERRITORY

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 Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 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 two 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 Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation

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thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along 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; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including 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 shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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