

Decision No. 81125

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

1. WALTER F. PETERS, an individual,
to transfer, and of
PETERS TRUCK LINES, a corporation,
to acquire Certificates as a High-
way Common Carrier and Cement
Carrier and a Prescriptive Ware-
house Right and other property;
2. PETERS TRUCK LINES, a corporation,
to issue stock.

Application No. 53662
(Filed October 24, 1972)
(Amended February 15, 1973)

O P I N I O N

By this application Walter F. Peters, an individual, requests authority to transfer to Peters Truck Lines, a corporation, pursuant to the provisions of Sections 851-854 of the Public Utilities Code, certain property owned by him, including the following operating authorities:

1. Certificate of public convenience and necessity to operate as a highway common carrier issued by Decision No. 60602 dated August 23, 1960 in Application No. 42165, as amended by Decision No. 65172 dated April 2, 1963 in Application No. 45173, and transferred by Decision No. 66733 dated February 4, 1964 in Application No. 45926 and another such certificate transferred by Decision No. 74473 dated July 30, 1968 in Application No. 50182. Said certificates are the subject of Certificates of Registration issued by the Interstate Commerce Commission in Docket No. 97710 (Sub. 5) and (Sub. 6), respectively.
2. Prescriptive operative right as a public utility warehouseman in Yreka and Mt. Shasta, stated in Decision No. 66733, supra.

3. Certificate of public convenience and necessity to operate as a cement carrier, granted by Resolution No. 13825 dated June 23, 1964.

Transferor also holds certain permits issued by this Commission, the transfer of which will be sought by other appropriate applications.

Transferee requests authority to issue up to 250,000 shares of its \$1.00 par value common stock, and to assume certain obligations of individual, pursuant to the provisions of Sections 816-830 of the Public Utilities Code.

The application states that transferor is presently conducting operations as a sole proprietor and desires to do business in the corporate form so that the service he provides will have the permanence attached to corporate organization. In addition, the corporate form of organization will enable transferor to separate his own personal financial situation from that of the business by establishing a separate entity for the conduct of the business. The use of the corporate form will also provide for a simplified method of ownership in the business and enable transferor to more easily provide for the business's ownership in the event of his death, by having the ownership of the business represented by shares of stock.

It is alleged that it will be in the public interest to authorize the transfer here proposed and the issuance of the shares of stock for the reason that it will give permanence to the business and will make it continuously available for public use upon the basis of a permanent corporate structure.

Exhibit 2 of the application is a balance sheet of transferee as of August 31, 1972. It discloses assets of \$819,177.90 offset by liabilities of \$617,584.47 and net worth of \$201,593.43. There are no protests.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.

2. The proposed stock issue is for a proper purpose.
3. The money, property, or labor to be procured for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or income.
4. A public hearing is not necessary.

Based on the foregoing findings the Commission concludes that the application should be granted.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred so far as the operating rights are concerned, nor as authorization for issuance of stock exceeding the net worth of the business on the date of transfer.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificates and prescriptive right presently held by Walter F. Peters and the issuance of certificates in appendix form to Peters Truck Lines.

The appendix for the in-lieu certificate of public convenience and necessity covering the highway common carrier authority will reflect the current designations of highways and roads and will not enlarge nor broaden the authority to be transferred.

Peters Truck Lines 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. On or before June 30, 1973, Walter F. Peters may sell and transfer, and Peters Truck Lines may purchase and acquire, the highway common carrier and cement carrier certificates of public

convenience and necessity, the prescriptive operative right as a public utility warehouseman, and the related assets referred to in the application.

2. Peters Truck Lines, on or after the effective date hereof, and on or before June 30, 1973, for the purpose set forth in this proceeding, may issue not exceeding 250,000 shares of its \$1.00 par value common stock to Walter F. Peters and assume outstanding equipment contracts.

3. Peters Truck Lines shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Peters Truck Lines 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.

5. Peters Truck Lines shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the highway common carrier, cement carrier, and warehouse operations herein to show that it has adopted or established, as its own, said rates and rules. 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 highway common carrier, cement carrier, and warehouse 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 Orders Nos. 80-Series, 117-Series, and 61-Series, respectively. Failure to comply with and observe the provisions of General Orders Nos. 80-Series, 117-Series, and 61-Series may result in a cancellation of one or more of the operating authorities granted by this decision.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, certificates of public convenience and necessity are granted to Peters Truck Lines authorizing it to operate as (1) 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) a public utility warehouseman, as defined in Section 239(b) of the Public Utilities Code, for the operation of storage or warehouse floor space as set forth in Appendix B attached hereto and made a part hereof; and (3) a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points particularly set forth in Appendix C attached hereto and made a part hereof.

7. The certificates of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificates of public convenience and necessity granted by Decisions Nos. 66733 and 74473 and Resolution No. 13825 and the prescriptive operative right as a public utility warehouseman as stated by Decision No. 66733, which certificates and prescriptive operative right are revoked concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

8. Within thirty days after the transfer herein authorized is consummated, Peters Truck Lines shall file a written acceptance of the certificates herein granted. Peters Truck Lines is placed on notice that, if it accepts the certificates 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.

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

The authority herein granted to issue stock will become effective when applicant has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$500. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of 1 MARCH, 1973.



Vernon L. Sturgeon
President
William J. ...
...
...
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Peters Truck Lines, 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 as follows:

- I From, to and between all points located along the highways and within the territory hereinafter described:
 - A. The San Francisco Territory, as described in Note A, and points and places within five miles of the boundaries thereof.
 - B. Points and places on or within ten miles of:
 - 1. Interstate Highway 80 from and including Richmond, to and including Sacramento;
 - 2. State Highway 4 from its intersection with Interstate Highway 80 near Pinole to and including Stockton;
 - 3. Interstate Highways 580, 205 and 5 from Oakland to and including Stockton;
 - 4. State Highway 99 from and including Modesto to and including Sacramento;
 - 5. State Highway 12 from its intersection with Interstate Highway 80 near Fairfield to its intersection with State Highway 99 near Lodi;
 - 6. State Highway 160 from its intersection with State Highway 4 near Antioch to and including Sacramento;
 - 7. Interstate Highway 80, and State Highway 65 and 99 from Sacramento to and including Red Bluff;

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8. Interstate Highway 5 from Sacramento to Hilt;
 9. The Post Office at Tulelake;
 10. U.S. Highway 97 from and including Weed to the Oregon State Line and the off-route points of Bray and Tennant;
 11. State Highway 161 from its intersection with U.S. Highway 97 at or near the Oregon border to an unnumbered highway intersecting said highway near Tulelake and along said last-mentioned highway to Tulelake;
 12. State Highway 3 from its intersection with Interstate Highway 5 near Yreka to and including Callahan via Fort Jones, Greenview and Etna;
- C. Sacramento and North Sacramento and points and places within twenty miles thereof.

The authority granted in Part I hereof is subject to the restriction that no traffic shall be handled having origin in Sacramento and destination at Davis, Woodland or Winters.

II Between all points and places on the following highways:

- (a) State Highway 96 between its junction with Interstate Highway 5 and Happy Camp, inclusive;
- (b) Unnumbered highway (Indian Creek Road), between Happy Camp and Indian Creek, inclusive;
- (c) Interstate Highway 5 and unnumbered highway between Yreka and Hornbrook, inclusive, on the one hand, and points on the highways described in II, subparagraphs (a) and (b) above, on the other hand. Applicants shall provide no local service between points on Interstate Highway 5 and unnumbered highway between Yreka and Hornbrook.

III Service routes, through routes and rates for Parts I and II are as follows:

- (a) Through routes and rates may be established between any and all points specified herein;

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- (b) Service to be performed between certificated points via any and all available streets and highways including all connecting streets and highways.

Pursuant to the authority granted in I above carrier shall not transport any shipments of the commodities shown in Items 1, 3, 4, 9 and 11 below.

Pursuant to the authority granted in II above carrier shall not transport any shipments of the commodities shown in Items 1, 2, 3, 4, 5, 6, 7, 8 and 10 below.

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.
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.

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7. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
8. Logs. ✓
9. Raw Potatoes.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, in effect on August 23, 1960.

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 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

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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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PETERS TRUCK LINES, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a public utility warehouseman as defined in Section 239(b) of the Public Utilities Code for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Yreka	1,280
Mt. Shasta	1,280

(The floor space shown is exclusive of the expansion permissible under Section 1051 of the Public Utilities Code.)

(END OF APPENDIX B)

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Peters Truck Lines, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a cement carrier as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to and within the County of Siskiyou.

RESTRICTION: This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX C)

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