

ORIGINAL

Decision No. 81604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JACK HEMSATH DRAYAGE, INC., for a
certificate of public convenience
and necessity to extend highway com-
mon carrier service.

Application No. 53957
(Filed April 11, 1973)

O P I N I O N

Jack Hemsath Drayage, Inc., presently providing service as a highway common carrier for the transportation of general commodities, with certain exceptions, between points within the San Francisco-East Bay Cartage Zone, requests authority to extend service to points throughout the San Francisco Territory. Applicant also seeks corresponding interstate authority to the proposed extended area. Copies of the application were served on carriers with which the proposed service might compete and on the California Trucking Association. An appropriate notice was filed in the Federal Register on May 2, 1973. No protest has been received.

The proposed extension would encompass an area from Novato, Vallejo, and Antioch, on the north, Livermore and Warm Springs, on the east, and San Jose, on the south.

Applicant proposes a daily service, Monday through Friday with a same-day or overnight delivery, depending upon the time of day requests for service are received. Applicant owns and operates 19 units of equipment and as of December 31, 1972 indicated a net worth in the amount of \$123,722.

It is alleged that applicant corporation and its predecessor have been engaged in the transportation business in the San Francisco area since March 12, 1946; that the operation initially was conducted with a single truck and has expanded over the years;

that as the requirements of its shippers have increased, applicant's operations have increased accordingly; and that the proposed extension will permit applicant to continue to meet the shipping needs and requirements of its customers.

After consideration the Commission finds that:

1. Applicant is presently providing service as a highway common carrier between points within the San Francisco-East Bay Cartage Zone. Because of an increasing demand by its customers for its service on shipments moving in intrastate, interstate, and foreign commerce, applicant proposes to extend service to additional points within the San Francisco Bay Area.

2. Applicant possesses the necessary equipment, facilities, experience, and financial ability to provide the proposed service.

3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application 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.

4. The Commission finds with reasonable certainty that the project involved in the proceeding will not have a significant effect on the environment.

The Commission concludes that the application should be granted. Applicant's operating authority will be restated in the form of a new certificate. The territorial description of the authority granted reflects the names of redesignated highways and does not in any way exceed the geographical scope of the proposed operations as published in the Federal Register.

Applicant is 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. 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 Jack Hemsath Drayage, 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.

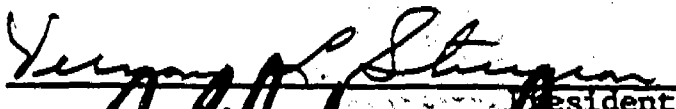
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and amend or 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.


3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 50907 dated December 28, 1954 in Application No. 34889 and transferred to applicant by Decision No. 67711, which certificate is 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 17th day of JULY, 1973.








Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate
-4- in the disposition of this proceeding.

Jack Hemsath Drayage, 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 between all points on and within ten miles laterally of the points and places on the following routes:

1. U. S. Highway 101 between Novato and San Jose, inclusive;
2. State Highway 17, between San Rafael and San Jose, inclusive;
3. Interstate Highway 80, between San Francisco and Vallejo, inclusive;
4. State Highway 4, between Pinole and Antioch, inclusive;
5. State Highway 24, between Oakland and Antioch, inclusive;
6. Interstate Highway 580, between Oakland and Livermore, inclusive;
7. Interstate Highway 680, between Vallejo and Warm Springs, inclusive;
8. State Highway 37, between its junctions with U. S. Highway 101, near Novato, and Interstate Highway 80, near Vallejo.

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.

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Except that pursuant to the authority herein granted, 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. 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.
3. 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.
4. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
5. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
6. Logs.
7. Articles of extraordinary value.
8. Fresh fruits or vegetables.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

(END OF APPENDIX A)

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