

**ORIGINAL**Decision No. 82434

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
BUSY BEE FREIGHT LINES, INC., a  
corporation, for a certificate of  
public convenience and necessity  
authorizing the transportation of  
general commodities between points  
within the San Francisco Territory  
and other designated points.

Application No. 54168  
(Filed July 12, 1973;  
amended November 21, 1973)

O P I N I O N

Applicant Busy Bee Freight Lines, Inc., a California corporation, requests that it be issued a certificate of public convenience and necessity to operate as a highway common carrier in the transportation of general commodities with certain exceptions between points in the San Francisco Territory and an area generally bounded by San Francisco, Sacramento, Stockton, Tulare, Coalinga, and Tracy. Applicant further requests that we find that public convenience and necessity require that applicant be authorized to engage in operations in interstate and foreign commerce within the limits which do not exceed the scope of the intrastate operations which may be authorized by this decision. The certificate of service attached to the application shows that a copy of the application was served on motor carriers whose operations may be competitive with the proposed operations. The application was noticed in the Commission's Daily Calendar of July 17, 1973. The Commission's formal file in this matter includes a letter from the Interstate Commerce Commission which states that the application was noticed in the Federal Register of August 1, 1973. The application was restrictively amended on November 21, 1973 by reducing the lateral authority sought by applicant from 20 to 10 miles. Upon the application being amended, all protestants withdrew their objections to a grant of the application.

Applicant presently operates as a highway contract carrier under a permit issued to it by this Commission under File No. T-95567. The operating scope of this permit coincides generally with that requested in this application. Applicant asserts that since first commencing its permitted operations, its fleet of equipment has expanded considerably, and that the scope of its operations have similarly expanded to the extent that it now serves a large number of shippers on a virtually day-to-day basis with an ever-increasing degree of regularity and frequency. Applicant contends that this expansion of applicant's operation is directly attributable to the large scale population influx within the area proposed to be served, and that this influx will continue within the foreseeable future. Applicant states that it feels that it must of necessity apply for a certificate of public convenience and necessity so as to perpetuate its existing operations in line with the rules and regulations of this Commission. Applicant states that recently a member of the Commission's staff advised applicant that its operations were threatening to pass the bounds of its existing permitted authority.

Applicant proposes to render a daily service, Monday through Friday, on a same-day or overnight basis and assess rates on the same scale as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs. The proposed service will be conducted with vehicles which it presently operates under its permitted authority which comprise 12 power units and 11 vans between 12 and 20 feet in length. Applicant also has two forklifts. Applicant's balance sheet as of March 31, 1973 submitted with the application shows that applicant had a net worth on that date of \$78,678. Its statement of income for the three months ended March 31, 1973 reveals that during that period it grossed \$101,605 for a net after taxes of \$7,171.

The application is supported by three shippers: B. R. Funsten & Co. of San Francisco, Texolite, a division of General Electric of Oakland, and Celanese Plastic Corp. of San Leandro. Funsten, a distributor of carpet and other floor covering, states that it has a daily outbound dollar volume of truck traffic of over \$100,000 from its San Francisco shipping facility; that it ships to retail stores throughout California and the 11 western states; that it has used the services of applicant for 10 years and that currently applicant is handling approximately 15 percent (3,000-5,000 pounds per day) of Funsten's traffic, primarily traffic destined to the area bounded by San Francisco, Sacramento, and Fresno; that applicant is the only carrier which performs overnight service on Funsten's traffic to central California points; that without applicant's central California service, Funsten might well have to foreclose selling in the Lodi-Fresno market area; that applicant's service has been exceptionally fast and damage free; and that Funsten wants this same service to continue and be extended to them on an interstate-interline basis.

Texolite asserts that it averages 60 to 70 outbound shipments per day of laminated plastics and formica products, one-third of which is transported by applicant for delivery to northern and central valley points; that applicant has been serving Texolite for over five years; that many of Texolite's customers request their shipments come by applicant; and that if the application is granted Texolite will continue to use applicant's service and extended interstate service.

Celanese asserts that it ships between 10,000 and 15,000 pounds or 15 percent of its monthly traffic via applicant which is primarily consigned to residential builders in the valley communities in and around Modesto, Stockton, and San Jose; that in the three years Celanese has used applicant's service it has been excellent in all phases, particularly time in transit; that Celanese has had unfavorable past experiences with several common carriers; and that

Celanese has a continuing need for applicant's service on an intrastate basis and needs that type of service extended to an interstate-interline basis.

After consideration the Commission finds that applicant possesses the necessary equipment, experience, and financial ability to conduct the proposed service, and that 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 this decision. The Commission further finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. 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 reflects the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

Busy Bee Freight Lines, Inc. 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 Busy Bee Freight Lines, 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 set forth in Appendix A, attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with 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 of this order, applicant shall establish the authorized service 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 authorized service.
- (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 is the date hereof.

Dated at San Diego, California, this 5th  
day of FEBRUARY, 1974.

I dissent:

[Signature], Commissioner

[Signature] President  
[Signature]  
[Signature]

Commissioners

Busy Bee 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 as follows:

- I. Between all points and places in the San Francisco Territory as described in Note A.
- II. Between all points and places on or within 10 miles laterally of the following routes:
  - (a) Interstate Highway 80 between San Francisco and Sacramento, inclusive;
  - (b) State Highway 4 between its junction with Interstate Highway 80 near Pinole, and Stockton, inclusive;
  - (c) Interstate Highway 580 between its intersection with State Highway 17 and its intersection with Interstate Highway 5, inclusive;
  - (d) Interstate Highway 5 between its intersection with State Highway 4 at Stockton and its intersection with State Highway 198, inclusive;
  - (e) State Highway 120 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive;
  - (f) State Highway 198 between its intersection with Interstate Highway 5 and its intersection with State Highway 99 near Visalia, inclusive;
  - (g) State Highway 99 between Sacramento and Tulare, inclusive;
  - (h) State Highway 152 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive;

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- (i) State Highway 33 between its intersection with State Highway 152 at the Dos Palos Wye and its intersection with Interstate Highway 5, via Firebaugh, inclusive;
- (j) State Highway 180 between its intersection with State Highway 33 and its intersection with State Highway 99, inclusive; and
- (k) State Highway 140 between its intersection with Interstate Highway 5 and State Highway 99, inclusive.

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

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. 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. Cement
8. Logs.
9. Commodities of unusual or extraordinary value.

## 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

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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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