

Decision No. 84665**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 DITTO FREIGHT LINES, a California
 corporation, for an in-lieu certificate
 of public convenience and necessity
 to operate as a highway common carrier
 for the transportation of property in
 intrastate and interstate and foreign
 commerce.

Application No. 55101
 (Filed August 9, 1974;
 amended January 16 and
 May 12, 1975)

O P I N I O N

Applicant operates as a highway common carrier for the transportation of general commodities, with the usual exceptions, between the San Francisco Territory, Sacramento, Stockton, Merced, Gustine, Califa, Monterey, and various intermediate points and for the transportation of certain named commodities between Santa Rosa and San Francisco and between Merced and Bakersfield. The authority is set forth in Decision No. 82258 dated December 18, 1973 in Application No. 54396. It also operates in intrastate commerce pursuant to a radial highway common carrier permit issued by this Commission and in interstate and foreign commerce pursuant to authority issued by the Interstate Commerce Commission.

By this application, as amended, applicant seeks authority to eliminate the restriction in its certificate prohibiting refrigeration service for general commodities and to extend its certificated rights to include general commodities service via U.S. Highway 101 between Salinas and Paso Robles, via State Highway 99

between Merced and Bakersfield,^{1/} via Interstate Highway 5 between Stockton and its junction with State Highway 58, and via both State Highway 198 and 46 between their intersections with U.S. Highway 101 and State Highway 99. It requests an in lieu certificate, incorporating both its present and sought authorities. 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 28, 1974. The amendment eliminated certain of the routes sought in the original pleading and made no other changes. The Commission was notified on April 21, 1975 by the only protestant that since the amendment eliminated the extensions to which it objected, its protest was withdrawn.

The application states that applicant's customers have requested and require general commodities service to the sought extended areas; that many of the customers also require refrigeration or temperature control service; that the refrigeration service now available in California is very limited; that the sought authority will have no major effect on the environment; and that public convenience and necessity require the proposed service. Applicant has five tractors, five trailers, 18 semitrailers, eight dollies, and ten chassis with demountable containers. Applicant's balance sheet dated June 30, 1974 shows assets of \$131,302.26, liabilities of \$92,369.39, and stockholders' equity of \$38,905.87. For the period April 2 through June 30, 1974, it had revenue of \$63,013.01, expenses of \$54,107.14, and net earnings before income taxes of \$8,905.87.

^{1/} The sought general commodity authority on this route would include the named commodities it is presently authorized to transport along it.

Copies of the application and amendment were served in accordance with the Commission's procedural rules, and they were listed on the Commission's Daily Calendar. Other than the protest which was withdrawn, no other protests have been received.

We are of the opinion that the application, as amended, should be granted. We agree with the request in the second amendment that rather than repeat the extensive list of named commodities in Section II of the present certificate, the same result can be achieved in the in lieu certificate by listing only the generic headings for the various commodities. This would, according to applicant, result in only technical and de minimus differences from the present listing. As applicant points out, the present list of commodities requires over 30 pages, and the generic listing would require only one page. This would not only make the in lieu certificate more concise, it would also be extremely beneficial to the tariff agent in publishing applicant's operating rights.

Findings

1. Applicant has the experience, equipment, and ability to provide the proposed additional 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 the 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.
3. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

4. A public hearing is not necessary.

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

Ditto Freight Lines 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 Ditto 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 set forth in Appendix A of this decision.

2. 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. 82258, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b).


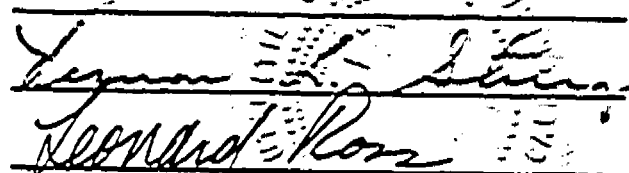
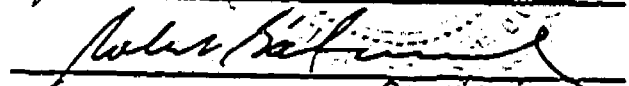
3. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (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 administered by 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 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 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 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 15th day of JULY, 1975.


President

Leonard Ross

Commissioners

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

Ditto Freight 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:

I. General Commodities:

- A. Between all points and places in the San Francisco Territory as described in Note A, including all points and places within 15 miles of any point therein.
- B. Between all points and places, inclusively, on and within 15 miles laterally of the following routes:
 1. U. S. Highway 101 between San Jose and Paso Robles;
 2. State Highway 17 between San Jose and Santa Cruz;
 3. State Highway 1 between Santa Cruz and Monterey;
 4. State Highway 68 between Salinas and Monterey;
 5. Interstate Highway 80 between San Francisco and Sacramento;
 6. Interstate Highway 580 between San Francisco and its junction with Interstate Highway 205, thence via Interstate Highway 205 to its junction with Interstate Highway 5, via Interstate Highway 5 to Stockton, and thence State Highway 99 to Sacramento;
 7. State Highway 4 between its junction with Interstate Highway 80, near Pinole, and Stockton;

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8. State Highway 24 between Oakland and Walnut Creek and between Walnut Creek and its junction with State Highway 4, near the U. S. Naval Weapons Station, Concord; from said junction via State Highway 4 to its junction with State Highway 160, near Oakley and State Highway 160 between said junction and Sacramento;
 9. State Highway 33 between Tracy and Gustine;
 10. State Highway 99 between Sacramento and Bakersfield;
 11. State Highway 120 between the Mossdale Wye and Manteca;
 12. State Highway 132 between Vernalis and Modesto;
 13. State Highway 140 between Gustine and Merced;
 14. State Highway 152 between Gilroy and Califa;
 15. Interstate Highway 5 between Stockton and its junction with State Highway 58;
 16. State Highway 198 between its junction with U. S. Highway 101 and its junction with State Highway 99; and
 17. State Highway 46 between its junction with U. S. Highway 101 at Paso Robles and its junction with State Highway 99.
- C. Through routes and joint rates may be established between any and all points in Part I.
- D. 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:

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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.
 7. Logs.
 8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
 9. Fresh fruits and vegetables.
- II. Conduits, pipe, smokestacks, tubing or fittings, other than clay, concrete or earthen; Flour; Grain products; Glass; Glassware; Iron or Steel; Paper; Paper articles; Plumbers goods, or bathroom or lavatory fixtures.

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- A. Between all points and places inclusively, on and within 15 miles laterally of the following route:

U. S. Highway 101 between San Francisco and Santa Rosa.

- B. Through routes and rates may be established between any and all points designated in Parts I and II.

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 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

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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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