

Decision No. 85192

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
D & I DELIVERY SERVICE CO., a  
corporation, for an in lieu  
certificate of public convenience  
and necessity authorizing the  
transportation of general  
commodities between certain  
designated points within the State  
of California.

Application No. 55802  
(Filed July 14, 1975)

O P I N I O N

Applicant operates as a highway common carrier for the transportation of parcels and packages between designated points and places in the San Francisco-East Bay Area. The authority is set forth in Appendix A of Decision No. 84075 dated February 11, 1975 in Application No. 55356 and provides, among other restrictions, that applicant shall not use trucks of a greater rating than one ton and shall not carry any package or parcel weighing more than 100 pounds. It also operates pursuant to radial highway common carrier and highway contract carrier permits.

By this application, applicant seeks an in lieu certificate of public convenience and necessity authorizing it to operate generally between Ukiah, Redding, and Chico on the north, Sacramento on the east, and Gorda, San Lucas, and Tulare on the south. The sought authority would be subject to the same restrictions set forth in applicant's current certificate. 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 was published in the Federal Register of August 27, 1975.

The application states as follows: Applicant is conducting substantial operations beyond the scope of its present certificated authority, and because of the regularity and frequency of this service, it is of the opinion that it should seek certificated authority to conduct these operations. Applicant performs a specialized type of package delivery service, and its equipment is specially designed for this type of service. It is continually receiving increased demands from the shipping public to provide such service to the sought extended areas. Applicant has sufficient equipment to provide the additional service, and should the need arise, it has the financial resources to add any additional equipment that may be necessary. The proposed operation will be daily, Monday through Friday, and time-in-transit for this service will be both the same day and overnight, depending upon the time of day the request for the service is received. Public convenience and necessity require the proposed service in both intra-state and interstate and foreign commerce.

Applicant's balance sheet dated March 31, 1975 shows assets of \$133,893, liabilities of \$44,293, and a net worth of \$89,600. For the period January 1, 1975 to March 31, 1975, it had income of \$89,594.61, expenses of \$84,851.52, and a net profit before income taxes of \$4,743.09.

Notice of the filing of the application was served on competing carriers, and the application was listed on the Commission's Daily Calendar. No protests to the application have been received.

#### 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 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 application.

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.

Conclusion

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

The applicant is placed on notice that any transportation performed within the scope of the certificate granted herein shall be deemed to have been performed as a highway common carrier; and in case of any conflict between the minimum rate deviation granted by Decision No. 84004 in Application No. 55270, and tariffs filed pursuant to General Order No. 80-Series, the latter shall prevail.

D & I Delivery Service Co. 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 D & I Delivery Service Co., 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. 84075, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3(b).

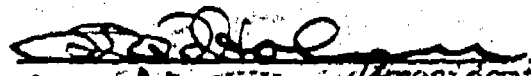
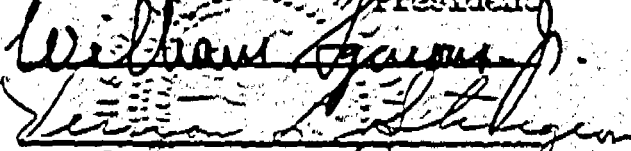


3. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (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 2nd day of DECEMBER, 1975.

  
President  
  
  
  
Commissioners

D & I DELIVERY SERVICE CO., a California corporation, 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 in San Francisco Territory as described in Note A.
- II. Between all points & places on or within 10 miles laterally of the following routes:
  1. Between Redding and the intersection of Interstate Highway 5 and State Highway 198 via Interstate Highway 5.
  2. Between Chico and Tulare via State Highway 99.
  3. Between Ukiah and San Rafael via U. S. Highway 101.
  4. Between Santa Cruz and Point Gorda via State Highway 1.
  5. Between Calistoga and Napa via State Highway 29.
  6. Between the intersection of Interstate Highway 580 and State Highway 17, and the intersection of Interstate Highway 5 and State Highway 120, via Interstate Highway 580, Interstate Highway 205, and Interstate Highway 5.
  7. Between San Jose and Santa Cruz via State Highway 17.
  8. Between Santa Clara and King City via U. S. Highway 101.
  9. Between San Lucas and Exeter via State Highway 198 and State Highway 65.
  10. Between King City and San Lucas via U. S. Highway 101.
  11. Between Fresno and Paicines via State Highway 180 and County Road J1.

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12. Between Califa and Gilroy via State Highway 152.
13. Between Oakland and Concord via State Highway 24.

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.

RESTRICTIONS:

1. Applicant shall not use trucks of a larger rating than one ton.
2. Applicant shall not transport any package or parcel weighing more than 100 pounds.
3. Applicant shall not transport any package with a combined length and girth of more than one-hundred and sixty inches.
4. Applicant shall publish only a tariff for parcel delivery in which charges are made per parcel or package delivered.
5. Applicant shall not transport parcels or packages which have been sold at retail by a retail merchant, and transported from a retail store or retail store warehouse to residences of retail customers.

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

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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 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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