

ORIGINAL

Decision No. 85414

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
 tion of RAYMOND ERTA for an Order)
 Authorizing him to Assign to)
 RAYMOND ERTA and RAYMOND WILLIAM)
 ERTA, a partnership, doing busi-)
 ness as OH AND AH TRUCKING SERVICE)
 his highway Common Carrier Certi-)
 ficate.)

Application No. 56033
 (Filed October 29, 1975)

OPINION

By Decision No. 67725, dated August 18, 1975, in Application No. 46768, the Commission authorized Raymond Erta to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier from Emmett Lester.

Said certificate was granted by Decision No. 54646 dated March 12, 1957, in Application No. 36268 and authorizes transportation of fresh or frozen fish and empty carriers between points in the San Francisco Territory, on the one hand, and Moss Landing, Santa Cruz and Monterey, on the other hand.

By the within application, Raymond Erta (transferor) requests that the certificate be transferred to the partnership consisting of himself and Raymond William Erta (transferees). It is alleged that it was originally intended that the certificate be transferred to the partnership rather than the individual and that the operating rights were purchased with partnership funds. The transfer to the partnership will be made without any payment.

It is alleged that the transfer will not cause any change in service, routes or other substantial matters. For this reason, no service of the application was made on competing carriers. The partnerships balance sheet of December 31, 1974, shows total assets of \$76,511 and total liabilities of \$1,890 for a net worth of over \$70,000.

Raymond Erta publishes his OH N'D AH Trucking Service, Local Freight Tariff No. 1 to cover the certificated operations. The partnership will be required to adopt that tariff or to publish its own tariff to cover the transferred rights. Notice of the filing of the application was made in the Commission's Daily Calendar of October 31, 1975. No protests have been received.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and that it and a deviation from the Commission's Rules of Practice and Procedure which require copies of the application to be widely disseminated should be authorized. The Commission concludes that the application should be granted.

A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Raymond Erta and the issuance of a certificate in appendix form to Raymond Erta and Raymond William Erta, a partnership.

Applicant transferees are 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.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1976, Raymond Erta may transfer the operative rights referred to in the application to Raymond Erta and Raymond William Erta, a partnership.

2. Within thirty days after the transfer the transferees shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Transferees shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established as their own said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. The 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 Order No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Raymond Erta and Raymond William Erta, a partnership, authorizing them 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.

5. The certificate of public convenience and necessity granted by Decision No. 54646 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferees shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.


7. Transferees shall maintain their 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.

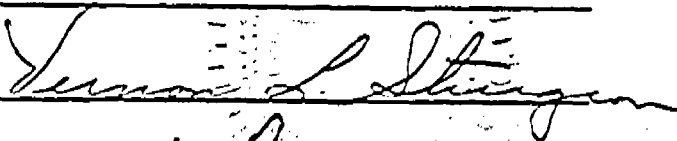
8. Transferees shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferees elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.



9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent that they are required to serve copies of the application only on those parties which request such service.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 3rd day of February, 1976.


President





Commissioners

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

Raymond Erta and Raymond William Erta, a co-partnership, by the certificate of public convenience and necessity granted by the decision noted in the margin are authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the following transportation:

- A. FISH, FRESH OR FROZEN, as listed under that heading in Items Nos. 38505 through 38575 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
- B. EMPTY CARRIERS, returning, viz.:

- Barrels
- Boxes
- Cans
- Drums

between San Francisco Territory as described in Note A attached hereto, on the one hand, and Moss Landing, Santa Cruz and Monterey, on the other hand. Such authority does not include the right to render service to, from or between intermediate points.

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.

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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 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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