

ORIGINAL

Decision No. 85763

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of RON'S DELIVERY SERVICE, INC.,)
 a corporation, for a certificate)
 of public convenience and neces-)
 sity to operate as a highway)
 common carrier for the transpor-)
 tation of specified commodities)
 in intrastate and interstate and)
 foreign commerce.)

Application No. 55738
 (Filed June 12, 1975)

Milton W. Flack, Attorney at Law,
 for applicant.
 Russell & Schureman, by Carl H.
Fritze, Attorney at Law, for
 Brake Delivery Service-Meier
 Transfer Service, City Freight
 Lines, Griley Freight Lines,
 and Los Angeles City Express,
 Inc.; and Jack B. King, for
 King Contract Carrier, Inc.;
 protestants.

O P I N I O N

Ron's Delivery Service, Inc. (Ron's), a California corporation, now operating as a permitted radial highway common carrier and highway contract carrier, seeks a certificate of public convenience and necessity as a highway common carrier, both intrastate and interstate, to, from, and within all points and places in the counties of Los Angeles, Orange, San Diego, Riverside, and San Bernardino. The application sets forth the specific commodities for which the authority is requested and is for the transportation of floor coverings or related articles, tile, facing or flooring, and molding, facing, baseboard or cove, and the necessary tools, adhesives, attachments, and supplies for installation of those commodities.

The application was listed in the Commission's daily calendar on June 16, 1975. Notice of the application appeared in Cal Trux, a periodical published and circulated by the California Trucking Association, Inc., and on July 22, 1975 Ron's gave notice to 15 certificated common carriers which might be affected by Ron's application. Notice of filing of the application was duly published in the Federal Register pursuant to special rules of the Interstate Commerce Commission on July 16, 1975.

Public hearings were held in Los Angeles before Examiner James D. Tante on November 24, December 3 and 5, 1975, and January 12 and 13, 1976. The matter was submitted on the latter date, subject to the filing of letter briefs on or before February 17, 1976.

The president of Ron's; the general manager of Ron's; the warehouse manager of Evans & Black Carpet Mills (E&B); the traffic and warehouse manager of Hollytex Carpet Mills (Hollytex); the warehouse and traffic manager of J. N. Ceazan Company (Ceazan); the warehouse manager of Century Carpet Mills (Century); the shipping supervisor of Sun West, Inc. (Sun West); a former supervisor of office and warehousing operations for Mohawk Pacific, Inc. (Mohawk); a vice president in charge of operations who is also in charge of transportation for Raffees Carpets, dba Design for Living (Raffees); vice president of Newport Carpet Mills (Newport); the warehouse manager of Galaxy Carpet Mills, Inc. (Galaxy); and the shipping supervisor of Hallmark Carpet Mills (Hallmark), testified for Ron's.

The president of Griley Freight Lines (Griley); the president of City Freight Lines (CFL); the president of Los Angeles City Express, Inc. (Express); and the president of King Contract Carrier, Inc., dba King Transportation Co. (King), testified for the protestants.

Exhibits 1 through 25 were received in evidence. The Commission took official notice of Ron's advertisement on page 2138 of the August 1975 publication of the Yellow Pages telephone directory of the Pacific Telephone Company for Area Code 213.

Ron's represents as follows:

1. It proposes to provide the service requested Monday through Friday, and Saturday upon request, and that the service will be overnight in character, i.e., shipments picked up on one day normally will be delivered at the destination points on its proposed routes in the morning of the following day.
2. It proposes to become a party to all Western Motor Tariff Bureau, Inc., Agent, Tariff Publications and to establish rates substantially in conformity with rates and charges presently published in those tariffs.
3. It has the financial ability to provide and render the service requested.
4. Ron's has operated as a permitted carrier of the specific commodities requested in its application between the points proposed to be served continuously for a period of several years and is familiar with the needs and requirements of the shippers, consignors, and consignees in this area.

5. It has received and continues to receive numerous requests from various shippers having movements of the specific commodities involved in this application to, from, and between the points and places located in the areas which it requests to serve as a common carrier.

6. It has been advised in writing by the Commission that certain of its operations constitute that of a common carrier, and in order to continue to provide the service as requested by its customers, it seeks a certificate of public convenience and necessity.

7. Its customers have shipments moving in interstate and foreign commerce and have requested it to transport such shipments along with intrastate shipments in order to reduce the number of carriers required to service the customers.

Ron's Evidence

The president of Ron's testified that Ron's or its predecessor has been conducting business as a for-hire transportation carrier for approximately six and one-half years. It is authorized to conduct operations under a radial highway common carrier permit within the State of California (Exhibit 2) and under a highway contract carrier permit authorizing operations within 150 miles from the city of Covina (Exhibit 3).

He stated that Ron's has specialized in the transportation and movement of carpeting, floor covering, linoleum, tile, and related materials from the inception of its business. Approximately 90 percent of the freight movements involve these commodities. It provides a daily service Monday to Friday, and Saturday on request. It has leased terminal facilities located in South El Monte and in San Diego. The South El Monte facilities, which are presently undergoing construction, will have 5,000 square feet

of enclosed terminal area and 500 square feet of office space. There will be dock space for handling 11 trucks, and storage facilities will be equipped with specially built shelves to handle and protect carpeting. The South El Monte facilities will be leased from Ron's president and sole shareholder for a period of five years with a five-year option.

Ron's has approximately 22 employees, consisting of 17 drivers, 2 office personnel, 1 mechanic, an operations manager, and its president. The drivers are specially trained to handle carpeting and floor covering and are given at least thirty days training on the dock in handling carpeting prior to being used as drivers. This advance training on the docks gives the new drivers experience in handling heavy carpeting and operating tow motors equipped with pulls.

He stated that Ron's equipment consists of 9 tractors, 6 bobtails, and 12 trailers (Exhibit 4). The trailers and bobtails are equipped with lift gates to facilitate the loading and unloading of the floor covering and tiles. The delivery trucks are equipped with side doors for easy access for loading and unloading. The interior plywood floors of the trailers and bobtails are sanded and sealed with an epoxy resin which produces a glasslike or smooth finish to protect the carpeting from damage. The ceilings and sides are lined to prevent rib damage to the carpet materials. In addition, Ron's provides carpet dollies, roller conveyors, and cable pullers for facilitating the delivery and unloading of carpeting, floor covering, and tiles. It utilizes equipment with pulls which are necessary to load, unload, and lift the carpeting without damage. Ron's also has three Econoline vans for residential delivery to restricted areas such as streets with load limits and into subterranean apartments and buildings where there is a height limit.

He further testified that Ron serves in excess of 110 customers consisting of mills, brokers, contractors, and retail outlets (Exhibit 8). It serves approximately 70 mills on a reasonably regular basis. Most of the mills are located in Los Angeles County, but there are also mills or consignors located in all of the five county areas sought by Ron's. It provides a specialized delivery service for carpeting and floor covering to the carpeting and floor covering industries. It averages 140 to 150 shipments per day, and daily service is provided to and from various points within the counties of Los Angeles, Orange, and San Diego, and there is service to and from San Bernardino and Riverside counties two or three days per week (Exhibit 9). Consignees are located within all of the populated areas of the five counties (Exhibit 8).

He testified that Ron's provides a will-call service at its terminal between 6:00 a.m. and 5:00 p.m., five and one-half days per week. In addition, it provides delivery service from 7:00 to 9:00 a.m. daily in all five counties on an overnight basis, and will also provide a same-day pickup and delivery service in order to meet customer needs and requests. Ninety percent of the deliveries are conducted overnight and delivered by noon of the following day within the five-county area. A large number of deliveries are made to jobsites and it coordinates deliveries on the jobsites with carpet layers in order to prevent delay. It will deliver carpeting to multistory buildings and to places requested by the customer.

Ron's financial statement shows that it has the financial ability to provide service as a certificated common carrier. Its profit and loss statement of September 30, 1975, after adjustment for depreciation, shows a net profit of \$39,032.90 with an operating ratio of 84.8 percent. The balance sheet as of September 30, 1975 indicates current assets of over \$31,000, fixed assets of over \$119,000, with total assets of almost \$160,000. It has current liabilities of \$367 and long-term liabilities of approximately \$51,000, indicating a favorable operating ratio (Exhibit 13).

Ron's requests Interstate Commerce Commission registered authority to be able to interline and share rates on a joint-through basis with other interstate common carriers. It desires to serve on an intrastate and interstate basis throughout all of the five counties involved, to be able to continue to serve its present customers as it has in the past, and also to continue to serve these same customers in their area of expansion within the five counties.

Ron's presented nine supporting witnesses who were shippers engaged in the manufacturing and/or distribution of carpet and/or other floor covering and related supplies who testified that they use and have used Ron's for delivery service in one or more of the counties of Los Angeles, Orange, San Bernardino, Riverside and San Diego. They stated that Ron's service is excellent, it is prompt, frequent, and dependable, and its drivers are courteous and helpful. They stated that their product is often ordered one day for delivery before 6:00 a.m. the following day and that Ron's is able to perform such service and most other carriers are not able to do so. They stated that Ron's trucks are properly lined to prevent damage to the carpet and that Ron's does not load the carpet with other commodities which might cause

damage to the carpet. They have had few, if any, complaints of damage as a result of Ron's handling their products. The frequency of their shipments varies from daily to monthly in some or all of the five counties.

The shippers testified that they are very satisfied with Ron's service; they intend to continue using his service, and in some instances would prefer to use Ron's service to deliver from their places of business to the interstate carriers that they use to transport their products outside of the State of California, thereby using Ron's to some degree in interstate commerce.

The witnesses employed by E&B, Ceazan, Sun West, and Raffees stated that Exhibit 9, which represented shipments made by certain shippers from June 17 to June 30, 1975, represented a period of time that was a slow period of the year for carpeting business and the amount of shipping performed for these companies by Ron's in a normal period is far in excess of that shown by Exhibit 9.

E&B has approximately 70 customers in the five-county area and 90 percent of its intrastate movement in this area is handled by Ron's from its facilities in the city of Commerce.

Hollytex is engaged in the sale of carpeting to more than 500 customers consisting of retailers, contractors, and department and furniture stores. It makes 700 to 800 shipments per week consisting of approximately 500,000 pounds of carpeting, and uses common carriers for deliveries south and east of the cities of Riverside and San Bernardino, and south of the city of Costa Mesa, on a daily basis. It uses Ron's for 90 percent of its for-hire carrier deliveries, consisting of approximately 5,000 pounds per day. It will utilize Ron's for interlining with interstate carriers which will enable it to consolidate all interstate shipments on a weekly basis and reduce congestion on its shipping dock.

Ceazan is located in Carson, California, and requires daily transportation service to service its customers located in the populated areas of the five counties involved. In addition, it requires on-the-jobsite deliveries two to three times per month, mostly in San Diego County. It has used Ron's for 60 percent of its deliveries and its deliveries require the specialized equipment used by Ron's and not usually used by other carriers.

Century has approximately 500 customers in the five-county area. In addition, it requires deliveries of interstate shipments outside of California. It requires carrier service two to three times a week in Los Angeles County, twice a week in Orange County, twice a week in San Diego County, and once a week in the remaining counties. It utilizes Ron's twice a week in San Diego County, once a week to San Bernardino and Riverside counties, twice a week to Orange County, and twice a week within Los Angeles County.

Sun West has its distribution center in Cerritos, California. It has between 750 to 800 customers within the five-county area and makes daily shipments to all populated cities within the five counties. It ships 2,000 to 2,500 pounds per day to each of the counties of Los Angeles, Orange, Riverside, and San Diego, and 1,000 pounds per day to San Bernardino County. It uses Ron's 90 percent of the time when it has the option of selecting the carrier, and 75 percent of the time when its customers select the carrier.

Mohawk requires daily service to Los Angeles, Orange, San Diego, and Riverside counties, and averages ten deliveries per month to San Bernardino County. In Los Angeles and Orange counties it averages 1,000 pounds per day for each county, in San Diego County it ships 1,500 to 2,000 pounds per day, less

than 1,000 pounds per day to Riverside County, and the average shipment to San Bernardino County is 600 to 700 pounds. It requires deliveries to all of the populated areas within the five counties and uses Ron's as its exclusive carrier in all cases, requiring Ron's services 90 percent of the time.

Raffees, located in El Cajon in San Diego County, obtains its carpeting and padding from mills, 70 percent of which are located in the Los Angeles area. It has used Ron's for the past six to seven years. It ships more than 20,000 pounds of carpeting each week from Los Angeles County to its place of business in El Cajon, San Diego County, and requires daily shipments. It also requires shipments of return merchandise from El Cajon to the mills in Los Angeles County. It requires early morning, 7:00 to 8:00 a.m., delivery service, and its experience has proved that with the exception of Ron's, no carrier would provide such service.

Galaxy is a manufacturer and distributor of carpeting with warehouse facilities in Santa Fe Springs, California, and ships its product daily by Ron's delivery to points in San Diego, San Bernardino, and Riverside counties. It averages 2,000- to 3,000-pound shipments to San Diego County daily; 1,000-pound average shipments to San Bernardino County two to three times a week; and an average of 200- to 300-pound shipments to Riverside two to three times a week.

Hallmark is engaged in the manufacture and sale of carpeting with warehouse facilities in Fullerton, California. It has approximately 1,250 customers, consisting of distributors and retail stores. It requires shipments to all points within the five-county area and utilizes Ron's delivery as a specialized carrier. It estimates that it ships approximately

5,000 pounds daily in the five-county area. Ron's provides a 4:00 p.m. to 5:00 p.m. pickup for early morning delivery the next day.

Protestants' Evidence

Griley, CFL, and Express are all common carriers of general commodities operating under authorities of the Interstate Commerce Commission and this Commission. The area of Griley and CFL extends from the San Francisco Bay area to the Mexican border, and the area of Express extends throughout the Los Angeles basin territory. The witnesses for these common carriers testified that they are general commodity carriers and will transport any and all kinds of freight including carpeting and floor covering. They stated that they are not specialized carriers and that they would mix shipments of carpeting and floor covering with that of general freight. Basically, they are not truckload carriers but less-than-truckload carriers. None of their trailers are specially lined to protect against damage to the carpeting and floor covering. Griley would not provide a service where his drivers would be given keys to warehouse facilities, as is done by Ron's. None of these companies provided epoxy-lined trailer and truck interiors. Griley and CFL have authority to transport commodities to San Diego, but the authority of Express does not extend to San Diego.

Griley, CFL, and Express provide cross-dock service, but have no special facilities for handling carpet such as carpet storage racks. None of their drivers are specially trained to handle carpeting or floor covering. The transportation of carpeting and floor covering by these carriers amounts to 10 percent or less of their total transportation. Their testimony was not to the effect that they would incur a loss of business if the certificate requested by Ron's was granted.

King Transportation Company is a specialized carrier of carpeting and floor covering, has been in business since 1969, and serves approximately 60 carpet mills from Los Angeles to San Diego counties. Several years ago its business increased and it was approached by representatives of this Commission and instructed to make application as a common carrier. Its certificated authority is for the transportation of carpet, floor coverings and related materials between the Los Angeles basin and the San Diego territory, with service to off-route points (Exhibit 24). It provides a specialized service for its customers and its specialized equipment includes epoxy-lined trailers and trucks, shelving racks for carpeting, five-day-per-week service and same-day delivery. The witness for King testified that his company desired to provide service to Ron's customers, but there was no testimony that any of its business or traffic would be diverted by the grant of the authority requested by Ron's or that King would lose any of its present customers. He stated that the handling of carpet was specialized as distinguished from general freight handling, and that in order to prevent damage to the carpet it was necessary to specially prepare the insides of the trucks as was testified to by a witness for Ron's. In addition, he stated that shelving for carpet at the warehouses was an important factor. He stated that in the past he had operated at capacity plus a growth rate of from 15 to 18 percent per year, but with the present recession he is able to continue to operate at a profit only because 7 of his 19 employees are members of his immediate family who he states are more versatile and are able to perform a greater amount of work.

The presidents of protestants Griley, CFL, and Express have had considerable experience in the field of shipping freight by common carrier and their respective companies are each certificated carriers with interstate authority, and are large, have a great amount of equipment, operate in the five counties, and are ready, willing, and able to provide both intrastate and interstate service in the area sought to be served by Ron's. They state that their respective companies have all of the equipment necessary to perform the services required and that their trucks are lined on the sides with plywood and that there is no danger of damage to carpet by the floors which are wood and metal or the ceilings of the trucks which are not lined. In addition, they state that they are each handlers of general freight but are able to and have mixed the shipment of carpeting with other freight by taking precautions such as bridging or placing pieces of lumber or pallets between the carpet and the other freight. They state that their experience has been such that in the shipment of carpet in this manner there have been no material claims for damage and they have not had any problems with damage to the carpet. They state that they are able to perform the same service performed by Ron's in the same area and equally as well, and at the present time a great deal of their equipment is not being used because of lack of business so that they do have sufficient equipment to perform the service involved herein.

During 1974 and 1975 Griley operated from 50 to 75 percent of capacity and the operation was nonprofitable, there being an operating ratio of approximately 104 percent. CFL has 40 units of its fleet idle at the present time because of lack of business. It hopes to be able to get back some of the business it has lost to Ron's and also to increase its business by being able to acquire

some of the business now being served by Ron's. Express is able to handle 40 to 50 percent more freight without acquiring additional equipment.

On rebuttal, the general manager of Ron's testified that if carpet is shipped as part of mixed cargo in the manner testified to by protestants, that it would be in danger of damage and that unless the interior of trucks were prepared as Ron's trucks are prepared and the floors and ceilings as well as the sides were covered with plywood and that the plywood was treated, that there would be great danger of damage to the carpet. He stated that the use of dunnage or separation of the carpet on mixed loads by wood or pallets would result in the carpet being damaged by splinters or that in traveling the vibration would damage carpet by rubbing against these other objects. He stated that transporting the carpet in a mixed load by the use of a bridge is not successful and that often the bridge collapses. He stated that metal strips on the floors of trucks often become damaged and tear the carpet when it is being loaded and unloaded, unless the floors are specially prepared for the transportation of carpet as is done by Ron's.

Discussion

Protestants Griley, CFL, and Express reviewed the freight bills underlying Exhibit 9 and thereafter submitted Exhibits 14 and 15. Exhibit 14 codes the supporting shippers to the shipments reflected on Exhibit 9 and Exhibit 15 is an abstract of shipments transported by Ron's for the supporting shippers during the period June 17 to 30, 1975. Exhibit 15 shows that the shipments tendered to Ron's during the period June 17 to 30, 1975 were considerably less than that testified to by the shippers, but this was explained by the witnesses who

were employed by the shippers who testified that the period in June was a period when the carpet business was slow and that business had improved considerably since that time.

The protestants contend that public convenience and necessity do not require any of the services proposed by Ron's in addition to the services presently provided by existing carriers and that in addition Ron's is not fit to receive a grant of additional authority.

Ron's is a small specialized carrier which has provided and desires to continue to provide a needed service to a particular segment of the shipping public. It provides specialized equipment, and caters to the specific needs of its customers who require time delivery, and provides drivers who are familiar with the particular type of product being transported. It provides a truckload service, essentially handles only a very small amount of general freight, and in no case does it mix the floor covering items with general freight.

Protestant King Transportation Company is the only carrier who performs a specialized service similar to that of Ron's in the area of the five counties involved, and the granting of the certificate as requested herein would cause no measurable adverse effect upon this carrier or its service to the public.

There is a need for the grant of the authority as requested. Ron's has shown that such a need extends to the five-county area for the transportation of the requested commodities within that area, and that the failure to grant the certificate as requested would deprive a particular segment of the public of a needed service.

An issue raised by the protestants is whether or not Ron's has been operating, and is proposing, highway common carrier service. The pertinent portion of Section 213 of the Public Utilities Code (Code) defines highway common carrier as "...every corporation or person owning, controlling, operating, or managing any auto truck, or other self-propelled vehicle not operated upon rails, used in the business of transportation of property as a common carrier for compensation over any public highway in this State between fixed termini or over a regular route, ..."

Section 215 of the Code provides in part, as follows:

"'Between fixed termini or over a regular route' means the termini or route between or over which any highway common carrier usually or ordinarily operates any auto truck or other self-propelled vehicle, ...even though there may be departures from such termini or route, whether such departures be periodic or irregular."

The determination of fixed termini depends upon the facts of each case, though it need not be fixed points geographically, but may be a city, town, truck terminal, locality, shipper's place of business, consignee's place of business, or any location where a shipment is picked up or delivered. (See Fleetlines, Inc. (1952) 52 CPUC 293.) The termini are "fixed" if the service is frequent enough to comply with the "usually or ordinarily operates" clause of Section 215 of the Code. (See Fleetlines, Inc., supra.)

Applying these concepts to the present case, we find the evidence fully supports a finding of highway common carriage. Although no regular route was run by Ron's trucks, they made frequent, often daily, and sometimes multi-daily pickups at regular customers and transported the goods to the shipper's regular customers. This activity satisfies Section 215 of the Code. (See Edgar R. Cude dba Active Trucking Service, Decision No. 84114 dated February 19, 1975.)

Protestants contend that if the past operations of Ron's was as a common carrier, then it has been acting contrary to its authority and is therefore not fit to receive a certificate of public convenience and necessity as requested.

Shortly after being advised by the Commission's staff that Ron's may be approaching common carrier status, it filed this application. There is nothing about this course of conduct or Ron's prior operations which would affect its fitness to hold a certificate. Contrariwise, it has proved itself to be responsible and dependable and has performed in a reliable manner. It would be unfair and inequitable to bar a permitted carrier from obtaining a certificate solely on the basis of prior uncertificated operations where its frequency of operations increased to the point where it may have crossed the vague demarcation into common carrier territory. (See Edgar R. Cude, dba Active Trucking Service, supra.)

The primary purpose of the regulated competition permitted among California carriers is not to guarantee the security of an investment, nor to guarantee a return on capital, nor to establish a monopoly, but to assure the best service to the public and to protect the interests of the public. (See Presto Delivery Service, Inc., Decision No. 83276 dated November 19, 1974.) In

this case the evidence clearly shows that the shipping public, fairly represented by the supporting witnesses of Ron's will benefit from its services, if certified. Further, these shippers all prefer Ron's services to other shippers and have been satisfied with the service provided by Ron's.

The fact that Ron's, as a permitted carrier, is already competing with protestants and is preferred by a representative sample of the shipping public, for various reasons, indicates the protestants are not offering a service adequate to meet the needs of the shipping public. Based on the evidence adduced, we find that the protestants Griley, CFL, and Express are not offering a service adequate to meet the needs of the shipping public for the commodities being shipped by Ron's. We further find that there will be no diversion of shipping from King by the granting of the requested certificate, and that public convenience and necessity would be best served by granting Ron's requested authority, as the shipping public will be permitted to retain a preferred, more convenient, and more efficient service.

Since Ron's is already a permitted carrier and is already competing with protestants, it is reasonable to infer that the competition will continue and may result in a future diversion of traffic from protestants. On the other hand, perhaps the stimulus of competition may result in improved service by protestants and the diversion of traffic may be in the opposite direction. In any event, the potential diversion of traffic is so speculative as not to merit any consideration in a case where Ron's is already competing with the protestants. (See Tcsi Drayage Company (1970) 70 CPUC 24, 28.) This is particularly true where the protestants failed to furnish any factual corroboration that they will lose business and suffer economic

loss if Ron's is granted the certificate. Since no change in traffic patterns or frequency would be generated by certification of Ron's, there should be no appreciable effect, adverse or otherwise, on the environment.

Findings

1. Ron's is presently, and for many years has been, providing a specialized service as a permitted highway contract carrier and radial highway common carrier for the transportation of shipment of carpets, floor coverings, tile and related materials between points within the proposed area.

2. Its service is designed, with respect to facilities, equipment, and time and place of delivery, to meet the shipping needs and requirements of carpet mills and distributors and consignees located in the area consisting of the counties of Los Angeles, Orange, San Diego, San Bernardino, and Riverside.

3. In order to render a proper and adequate and improved service to its present customers, there is a public need for Ron's to be permitted to interline with interstate carriers and consolidate its customers' interstate shipments on a weekly basis in order to reduce congestion on its customers' shipping docks.

4. The protestants, except King, are primarily engaged in the transportation of general commodities as highway common carriers. Although these protestants transport some shipments of carpet and floor covering, they do not have the special facilities and equipment to meet all of the shipping needs and requirements of the carpet mills and distributors.

5. The protestant King would not lose any of its business, nor would any of its traffic be diverted, nor would it lose any of its present customers by the granting of the authority requested by Ron's.

6. Ron's is not a new carrier; it has been operating as a permitted carrier for many years and there is no reason to believe that it would be any more competitive as a certificated carrier than it has been as a permitted carrier. The certification of Ron's would not materially alter the competitive picture or adversely affect the existing certificated carriers.

7. Ron's possesses the necessary equipment, facilities, experience, and financial ability to provide the proposed service. It is qualified and fit to render the proposed service.

8. Public convenience and necessity require that Ron's be authorized to engage in operations in intrastate commerce as proposed in the application and also require that Ron's 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.

9. The certification of Ron's will not impair the ability of protestants to provide existing service to their customers.

10. Ron's services are within the statutory definition of highway common carriage.

11. Notice of the application appeared in the Federal Register on July 16, 1975.

12. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusion

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

Ron's Delivery Service, 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 Ron's Delivery Service, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, to, from, and within all points and places 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 shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 11th day of MAY, 1976.

I dissent :

[Signature], Commissioner

[Signature]
President

[Signature]
[Signature]
[Signature]
Commissioners

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

Ron's Delivery Service, 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 as follows:

- A. For the transportation of specified commodities described in paragraph B hereof between the following points:

Between all points and places in the counties of Los Angeles, Orange, San Diego, Riverside and San Bernardino

- B. For the transportation of the following commodities:

1. FLOOR COVERINGS OR RELATED ARTICLES as listed under that heading in Items 70540 through 71030 of National Motor Freight Classification 100B, Richard H. Hinchcliff, Issuing Officer, on the issue date thereof.
2. TILE, FACING OR FLOORING; OR MOLDING, FACING BASEBOARD OR COVE, OTHER THAN METAL as listed under that heading in Items 182320 through 182660 of National Motor Freight Classification 100B, Richard H. Hinchcliff, Issuing Officer, on the date thereof.
3. The necessary tools, adhesives, attachments and supplies for installation of those commodities listed in subparagraphs 1 and 2 hereof.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 85763, Application 55738.