

ORIGINALDecision No. 86810

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 KELLER'S FREIGHT LINE, a California
 corporation, for a Certificate of
 Public Convenience and Necessity
 extending highway common carrier
 service.

Application No. 56360
 (Filed March 26, 1976;
 amended June 23, 1976)

O P I N I O N

Applicant is a California corporation which operates under contract and radial highway common carrier permits that authorize the transportation of general commodities and under a certificate of public convenience and necessity that authorizes operations in an area bounded by Santa Rosa and Napa on the north, Antioch and Concord on the east, and San Jose and Los Gatos on the south. Applicant's present authority was originally transferred from W. J. Keller by Decision No. 60082 dated May 9, 1960 in Application No. 41850. The authority has been amended several times and an extended in lieu certificate was granted by Decision No. 79746 dated February 23, 1972 in Application No. 52904.

The application was protested by six carriers. All protests were withdrawn after applicant filed an amendment to the application on June 23, 1976. The amendment limited the requested extension of operating authority to Sacramento, Stockton, and Modesto on the north and east, and to Salinas on the south. It is alleged

that applicant proposes to perform service in intrastate, interstate, and foreign commerce wholly within the State of California; that applicant's past authority has been registered with the Interstate Commerce Commission; and that it holds a certificate of registration issued by that Commission in MC-121687. Applicant has published appropriate notice of this application in the Federal Register.

Applicant will provide service on Monday through Friday with same-day or overnight service, depending upon when the goods to be delivered are received. The rates to be assessed will be on the same level as those contained under its existing tariffs, Pacific Coast Tariff Bureau Tariffs 15-A, 19, 101, and 14, and Exception Sheet No. 1. These rates are comparable to the rates and charges of competing motor carriers. Applicant proposes to establish through rates and rates between any and all points in its present and proposed operating authority.

Applicant operates out of San Francisco with 14 bobtails, one pickup truck, 13 tractors, 18 van trailers, one flat-bed, and five dollies. Applicant's balance sheet for the fiscal year 1975 shows an operating loss along with total assets of \$640,107 and current liabilities of \$120,952.

Applicant alleges that its frequency of service in the area it has applied to serve is about to exceed the level expected of a permitted operator and it has therefore filed this application in response to the needs of its shippers.

Upon consideration, the Commission finds as follows:

1. Applicant has the experience, equipment, personnel, and financial resources to institute and maintain the proposed 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 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 the order herein.

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

4. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order. The order which follows will provide for the revocation of the certificate granted by Decision No. 79746 and the issuance of an extended in lieu certificate in appendix form to Keller's Freight Line. The territorial description of the authority granted herein 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.

Keller's Freight Line 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 Keller's Freight Line, 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. 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 April 30 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.

3. 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. 79746 dated February 23, 1972 in Application No. 52904, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of JANUARY, 1977.

Robert B. Quinn

 President
William J. Quinn

James L. Sturgeon

Harold

 Commissioners

Keller's Freight Line, 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:

1. Between all points and places in the San Francisco-East Bay Cartage Zone as described in Note A hereof.
2. Between all points and places on and within 10 statute miles of the following routes:
 - (a) U.S. Highway 101 between Asti and Salinas, inclusive, with no service authorized to points north of Asti or to the Geysers.
 - (b) State Highway 17 between San Rafael and Santa Cruz, inclusive.
 - (c) Interstate Highway 80 between San Francisco and Roseville, inclusive.
 - (d) State Highway 238 and Interstate Highway 580 between San Lorenzo and junction of Interstate Highway 5, inclusive.
 - (e) State Highway 120 and Interstate Highways 5 and 205 between Manteca and junction with Interstate Highway 580.
 - (f) State Highway 12 between Santa Rosa and Lodi, inclusive.
 - (g) State Highway 4 between Pinole and junction with State Highway 160, inclusive.
 - (h) State Highway 160 and State Highway 12 between junction with State Highway 4 and Rio Vista, inclusive.

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- (k) State Highway 24 between Oakland and junction with State Highway 4, inclusive.
- (j) Interstate Highway 680 between Vallejo and Warm Springs, inclusive.
- (k) State Highway 29 between Vallejo and Rutherford, inclusive, with no service authorized to points north of Rutherford.
- (l) State Highway 99 between Sacramento and Modesto, inclusive.
- (m) Interstate Highway 5 between Woodland and Sacramento, inclusive.
- (n) State Highways 99 and 120 between Stockton and Manteca, inclusive.
- (o) U.S. Highway 50 and Folsom Boulevard between Sacramento and Rancho Cordova, inclusive.
- (p) Interstate Highways 80, 505 and State Highway 128 between Vacaville and Winters, inclusive.
- (q) State Highway 120 between Manteca and Oakdale, inclusive.
- (r) State Highway 1 between San Francisco and Carmel, inclusive.
- (s) State Highway 156 between Castroville and Hollister, inclusive.
- (t) State Highway 68 between State Highway 1 and Salinas, inclusive.

RESTRICTION: The authority authorized in Paragraph 2 above is restricted against the transportation of shipments having an immediately prior or subsequent movement by air:

- (a) south of San Francisco on State Highway 1.
- (b) south of Los Gatos on State Highway 17.
- (c) south of Coyote on U.S. Highway 101.

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- (d) east of Livermore on Interstate Highway 205.
- (e) east of Antioch on State Highway 4.
- (f) east of Vallejo on Interstate Highway 80.

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 salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
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.

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5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Articles of extraordinary value.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A

SAN FRANCISCO-EAST BAY CARTAGE ZONE

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway

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238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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