

ORIGINAL

Decision No. 87816 SEP 7 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of JOHN R. COSTA and PETER G.)
 COSTA, partners, doing business)
 as PACIFIC CARTAGE & WAREHOUSE-)
 ING, to transfer a certificate of)
 public convenience and necessity)
 and assets to PACIFIC CARTAGE &)
 WAREHOUSING, INC. a California)
 corporation and for PACIFIC)
 CARTAGE & WAREHOUSING to issue)
 stock.)

Application No. 57429
 (Filed July 7, 1977)

O P I N I O N

John R. Costa and Peter G. Costa, co-partners, doing business as Pacific Cartage & Warehousing, request authority to transfer a highway common carrier certificate of public convenience and necessity and certain assets to Pacific Cartage & Warehousing, Inc. and the latter seeks authority to issue a total of 3500 shares of capital stock, with a par value of \$10 per share, for an aggregate sum of \$35,000.

The partnership operates as a highway common carrier pursuant to authority granted in Decision 84555 dated June 17, 1975 in Application 55591 which authorizes the transportation of general commodities between points in San Francisco Territory and between points in Alameda and Contra Costa counties. This authority is also the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC 121689. The partnership also operates pursuant to permits issued by this Commission under File No. T-109,668.

The current balance sheet of the partnership which is Exhibit B of the of the application, shows a net worth of \$35,679 as of March 31, 1977 divided between the partners as follows:

John R. Costa	- \$21,973 - 62%
Peter G. Costa	- <u>\$13,706</u> - 38%
Total	\$35,679

The partnership proposes to transfer the highway common carrier certificate and other related assets to Pacific Cartage & Warehousing, Inc., a California corporation, incorporated on or about March 17, 1977, in exchange for 3500 shares of \$10.00 par value capital stock. John R. Costa will be issued 2,170 shares of stock and Peter G. Costa will be issued 1330 shares. The remaining \$679 will be credited to earned surplus on the new corporate balance sheet. The new corporation will assume the liabilities of the partnership as of March 31, 1977.

It is alleged that a copy of the application was mailed to the California Trucking Association and notice of the application was published in the Commission's Daily Calendar of July 11, 1977. No protests have been received.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the California public interest.
2. The proposed stock issue would be for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude 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 John R. Costa and Peter G. Costa co-partners, doing business as Pacific Cartage & Warehousing, and the issuance of a certificate in appendix form to Pacific Cartage & Warehousing, Inc. In accordance with their request and for accounting purposes, the parties may give effect to the proposed transactions as of March 31, 1977.

Pacific Cartage & Warehousing, 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 extended to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or cancelled 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 herein granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1977, John R. Costa and Peter G. Costa, co-partners doing business as Pacific Cartage & Warehousing, may sell and transfer the highway common carrier certificate and other assets referred to in the application to Pacific Cartage & Warehousing, Inc.
2. Pacific Cartage & Warehousing, Inc., on or after the effective date hereof and on or before December 31, 1977, may issue not exceeding 3500 shares of its \$10.00 par value common stock in exchange for assets totaling \$35,679.
3. Pacific Cartage & Warehousing, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.
4. Within thirty days after the transfer the Pacific Cartage Warehousing, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

5. Pacific Cartage Warehousing, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the 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.

6. 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 Pacific Cartage & Warehousing, Inc., 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.

7. The certificate of public convenience and necessity granted by Decision 84555 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

8. Pacific Cartage & Warehousing, Inc. shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

9. Pacific Cartage & Warehousing, Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts

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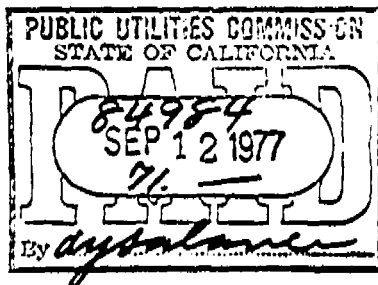
as prescribed or adopted by this Commission and shall file with the Commission, on or before April 30 of each year, an annual report of its operations in such form, content and number of copies as the Commission, from time to time shall prescribe.

10. Pacific Cartage & Warehousing, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Pacific Cartage & Warehousing, Inc. elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. The authority granted by this order to issue stock will become effective when Pacific Cartage & Warehousing, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which is \$71. In all other respects the effective date of this order is the date hereof.

Dated at San Francisco, California, this 7th, day of SEPTEMBER, 1977.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.



Robert Batmang
President
William S. S. S.

Julius D. Thorne
Paul J. D. D.
Commissioners

Pacific Cartage & Warehousing, Inc., 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 Territory as described in Note A.
2. BETWEEN all points on or within statute five miles of the following routes:
 - a. State Highway 24 between its intersection with Interstate Highway 80 and its intersection with Interstate Highway 680, inclusive;
 - b. Interstate Highway 680 between its intersections with State Highway 24 at Walnut Creek and south of Willow Pass Road, inclusive;
 - c. State Highway 24 between its intersection with Interstate Highway 680 south of Willow Pass Road and its intersection with Willow Pass Road, Concord, inclusive;
 - e. Interstate Highway 580 and State Highway 238 between the intersection with Interstate Highway 680 and the intersection with State Highway 17, inclusive;
 - f. Interstate Highway 680 between its intersection with State Highway 24 at Walnut Creek and its intersection with Bernal Avenue, west of Pleasanton, inclusive; and
 - g. Bernal Avenue between its intersection with Interstate Highway 680 and the City of Pleasanton, inclusive.

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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.
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.

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7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.

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);

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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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