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Decision No. 90108 | MAR 27 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DITTO FREIGHT LINES, a
California corporation, for an
extension of its certificate of
public convenience and necessity
to operate as a highway common
carrier.

Application No. 58231
(Filed July 14, 1978;
amended October 2, 1978)

O P I N I O N

Applicant Ditto Freight Lines, a California corporation, is presently operating as a highway common carrier for the transportation of general commodities between points in an area extending from Eureka and Redding, to the north, to San Diego and San Ysidro, to the south. Applicant holds a certificate of registration issued by the Interstate Commerce Commission in Docket No. MC-69454 which contains commensurate authority to operate in interstate or foreign commerce. It also holds and operates under highway carrier permits for the transportation of general commodities between all points in California.

Applicant hereby seeks to extend its highway common carrier certificate of public convenience and necessity to embrace points north and east of Eureka and Redding and east of Highway 99 between Alturas and U.S. Highway 50, points on Interstate Highway 395, between Coleville and San Bernardino, and points in the Mojave Desert and Imperial Valley areas. Service, to, from, or between points in the extended area will be limited to shipments having a minimum weight or charge applicable to shipments of 10,000 pounds or more. Authority is requested to serve the proposed area in interstate and foreign commerce. A copy of the application was served on all known carriers operating in the area of the proposed extension and a copy of the authority sought was submitted to the Interstate Commerce Commission and published in the Federal Register of September 7, 1978. Protests were filed by ONC Freight

Systems, Containerfreight Transportation Co., and City Freight Lines. Upon amendment of the application on October 3, 1978, the protests were withdrawn.

Operations to the proposed area are presently being held out and conducted by applicant under highway carrier permits. The new highway common carrier service to these points will be performed daily, Monday through Friday, and time in transit will be both same day and overnight, depending upon when service is requested. Rates, rules, and regulations that will govern operations under the extended rights will be on the same level and comparable to those contained in the Commission's minimum rate tariffs.

Applicant's principal place of business is located in San Jose. Its operating equipment includes 32 two-axle tractors, 11-three-axle tractors, 260 trailers of various types, 2 pickup trucks, and 5 service cars. Its balance sheet, as of December 31, 1977, shows total assets of \$283,231. The profit and loss statement for the 12-month period ending December 31, 1977, reflects total revenues of \$2,310,849 and net earnings, before taxes, of \$76,306.

It is alleged that applicant and its predecessor have operated as for-hire motor carriers throughout California for many years and have provided service to the proposed areas as a permitted carrier under its existing authority. The existing mixed certificate and permitted operations of the applicant have created problems because traffic moving under each of these authorities cannot be combined as consolidated shipments, and it is particularly burdensome with respect to split pickup and split delivery services required by its shippers. In addition, there are restrictions in applicant's north-south operation which prevent it from rendering a complete service, as required by its shippers. It is further alleged that the extended service will involve transportation and billing on the basis of a 10,000-pound minimum load which should minimize the competitive impact of a grant of this authority on most other carriers operating in the area sought to be served.

After consideration the Commission finds that:

1. Applicant is presently providing service as a highway common carrier and as a radial highway common carrier.
2. Applicant has the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce, as proposed in the application, as amended, and to engage in operations in interstate and foreign commerce within the limits which do not exceed the scope of the intrastate operations authorized by this decision.
4. Applicant's present and proposed authorities will be consolidated in an in lieu certificate.

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

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

O R D E R

IT IS ORDERED that:

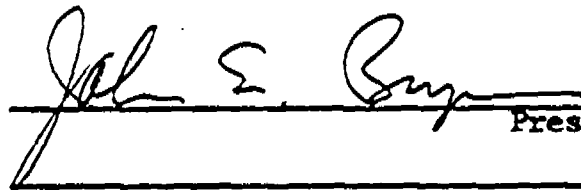
1. A certificate of public convenience and necessity is granted to Ditto Freight Lines, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.
2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so 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.

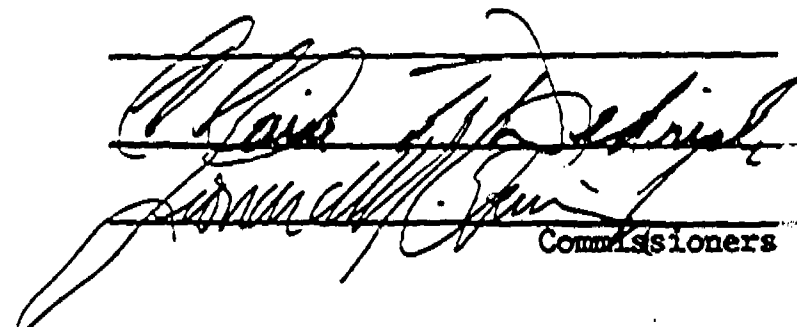
3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 88063 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 27th day of MARCH, 1979.



President



Commissioners

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

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

DITTO FREIGHT LINES
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Ditto Freight Lines, 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:

- I. GENERAL COMMODITIES, subject to the restrictions shown hereunder.
 - A. Between all points and places in the San Francisco Territory, as described in Note A, including all points and places located within 15 statute miles of the boundary of said territory.
 - B. Between all points and places, inclusively, on or within 15 statute miles laterally of the following routes:
 1. U. S. Highway 101 between San Jose and Paso Robles;
 2. State Highway 17 between San Jose and Santa Cruz;
 3. State Highway 1 between Santa Cruz and Monterey;
 4. State Highway 68 between Salinas and Monterey;
 5. Interstate Highway 80 between San Francisco and Sacramento;
 6. Interstate Highway 580 between San Francisco and its junction with Interstate Highway 205, thence via Interstate Highway 205 to its junction with Interstate Highway 5, thence via Interstate Highway 5 to Stockton, and thence State Highway 99 to Sacramento;

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7. State Highway 4 between its junction with Interstate Highway 80, near Pinole, and Stockton;
8. State Highway 24 between Oakland and its junction with State Highway 4, near the U. S. Naval Weapons Station, Concord; from said junction via State Highway 4 to its junction with State Highway 160, near Antioch and State Highway 160 between said junction and Sacramento;
9. State Highway 33 between Tracy and Gustine;
10. State Highway 99 between Sacramento and Bakersfield;
11. State Highway 120 between the Mossdale Wye and Manteca;
12. State Highway 132 between Vernalis and Modesto;
13. State Highway 140 between Gustine and Merced;
14. State Highway 152 between Gilroy and Califa;
15. Interstate Highway 5 between Stockton and its junction with State Highway 58;
16. State Highway 198 between its junction with U. S. Highway 101 and its junction with State Highway 99; and
17. State Highway 46 between its junction with U. S. Highway 101 at Paso Robles and its junction with State Highway 99.

II. GENERAL COMMODITIES, subject to the restrictions shown hereunder:

Between all points, inclusively, on or within 15 statute miles laterally of the following routes:

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1. U. S. Highway 101 between Crescent City and its junction with Interstate Highway 5 at Los Angeles.
2. Interstate Highway 5 between Yreka and the United States-Mexico Border at San Ysidro.
3. U. S. Highway 395 between Hallelujah Junction and its junction with State Highway 299 near Alturas, thence via State Highway 299 to its junction with Surprise Valley Road at Cedarville, thence via Surprise Valley Road to Lake City.
4. State Highway 299 between its junction with State Highway 101 near Arcata and Alturas.
5. State Highway 89 between its junction with State Highway 299 near Burney and its junction with Interstate Highway 30 near Truckee.
6. State Highway 99 between Red Bluff and its junction with Interstate Highway 5 at Wheeler Ridge.
7. State Highway 70 between Marysville and its junction with U. S. Highway 395 at Hallelujah Junction.
8. State Highway 20 between Calpella and its junction with Interstate Highway 80.
9. State Highway 29 between its junction with State Highway 20 near Upper Lake and Vallejo.
10. State Highway 49 between its junction with State Highway 70 at Vinton and Auburn.
11. State Highway 65 between Marysville and Roseville.
12. Interstate Highway 80 between San Francisco and Truckee.
13. U. S. Highway 50 between Sacramento and Meyers.

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14. State Highway 4 between its junction with Interstate Highway 80 near Pinole and Stockton.
15. State Highway 24 between Oakland and Concord.
16. State Highway 160 between Sacramento and its junction with State Highway 4 near Antioch.
17. Interstate Highway 580 between San Francisco and its junction with Interstate Highway 205, thence via Interstate Highway 205 and its junction with Interstate Highway 5, thence via Interstate Highway 5 to Stockton.
18. State Highway 17 between San Rafael and Santa Cruz.
19. State Highway 1 between Santa Cruz and Carmel.
20. State Highway 68 between Salinas and Monterey.
21. State Highway 33 between Tracy and Maricopa.
22. State Highway 140 between Gustine and Merced.
23. State Highway 120 between Mossdale Wye and Manteca.
24. State Highway 49 between Placerville and Sonora.
25. State Highway 108 between Oakdale and Modesto.
26. State Highway 132 between junction with Interstate Highway 580 and Modesto.
27. State Highway 152 between Gilroy and Califa.
28. State Highway 198 between San Lucas and its junction with State Highway 65 near Exeter.
29. State Highway 46 between Paso Robles and Famoso.

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30. State Highway 166 between Santa Maria and junction with Interstate Highway 5 at Wheeler Ridge.
31. U. S. Highway 395 between Coleville and its junction with Interstate Highway 15.
32. Interstate Highway 15 from Baker to San Diego.
33. State Highway 65 from its junction with State Highway 198 near Exeter and Bakersfield.
34. State Highway 58 between Bakersfield and Barstow.
35. Interstate Highway 40 between Barstow and California-Arizona State Line.
36. State Highway 14 between Mojave and junction with Interstate Highway 5 near Valencia.
37. Interstate Highway 10 between Los Angeles and Desert Center.
38. Interstate Highway 8 between San Diego and Gordon's Well.
39. State Highway 86 from Indio to El Centro.

III. Conduits, pipes, smokestacks, tubing or fittings, other than clay, concrete or earthen: Flour: Grain products: Glass; Glassware: Iron or Steel; Paper; Paper articles; Plumbers goods, or bathroom or lavatory fixtures.

Between all points and places on or within 15 statute miles laterally of the following route:

U. S. Highway 101 between San Francisco and Santa Rosa, inclusive.

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- IV. Through routes and rates may be established between any and all points designated in Paragraphs I, II, and III.
- V. 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. Except that pursuant to the authority granted in Paragraphs I and II hereof, carrier shall not transport any shipments of:
- a. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesman'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).
 - b. 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.
 - c. 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.

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- d. 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.
 - e. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
 - f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
 - g. Logs.
 - h. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
 - i. Fresh fruits and vegetables.
2. Other than the service authorized in Paragraphs I and III, service between points in Paragraph II shall be limited to shipments having a minimum weight of 10,000 pounds or which shall be billed at charges no less than those applicable to shipments having a minimum weight of 10,000 pounds or which shall be billed at charges no less than those applicable to shipments of at least 10,000 pounds.
3. No local service shall be performed between points in Ventura, Los Angeles, Orange and San Diego Counties and those points on and west of U. S. Highway 395 in San Bernardino and Riverside Counties.
4. Service shall be restricted against the transportation of commodities moving in ocean containers and empty containers between points in the San Francisco Territory, on the one hand, and, on the other, San Diego and Los Angeles.

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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 Company 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; southwestery 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

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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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