

Decision No. 90172 APR 10 1979

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DEACON'S DELIVERY )	
INC., a California corporation )	
for Certificate of Public Con- )	Application No. 58571
venience and Necessity as a )	(Filed January 4, 1979)
Highway Common Carrier in intra- )	
state service. )	

O P I N I O N

By its application Deacon's Delivery, Inc., a California corporation, seeks authority as a highway common carrier to transport general commodities with the usual exceptions between points in the San Francisco Territory and between said territory and the surrounding area, via specified routes, generally bounded by Santa Rosa, Napa, Marysville, Stockton, Fresno and Paso Robles. The request also includes service between all intermediate points and all points within twenty miles from said service routes and points.

Applicant is presently operating under a highway contract carrier permit issued by the Commission in File No. T-119,494. Applicant at the present time is transporting freight between the points covered by the application pursuant to its permit.

Applicant alleges that public convenience and necessity requires the proposed service because of the existing needs of its present shippers. Applicant's business, although small, is vitally important to the shipping public. In the last six months applicant has transported freight for approximately 30 different shippers with 13 different shippers using its service on an average during a week. Applicant averages from 40 to 50 shipments a week with the average size of each shipment being 1,000 pounds. Applicant desires to be able to continue in the trucking business and to serve the shipping public in the same manner as it has during the past five years and believes that it needs a certificate of public convenience and necessity to continue to meet its shipper's needs.

Applicant's financial statements of October 31, 1978 show a net worth of \$23,090.49 and a net income of \$12,969.77 for the twelve months ending September 30, 1978.

The service proposed by this application will be performed on a daily basis with on call service available on Saturdays, Sundays and holidays. Applicant owns and is presently using a 1977 Chevrolet, 16 foot, bobtail truck with 22,500 pound gross weight. The same equipment will be utilized in the service contemplated by this application and that if additional equipment is needed, applicant will either purchase or rent such additional equipment.

The application was listed in the Commission's Daily Calendar of January 5, 1979. Applicant has served copies of the application upon the California Trucking Association and the State of California (Traffic Department). No protests to the application have been received.

FINDINGS

1. Applicant has the experience, equipment and ability to provide the proposed service.
2. Public convenience and necessity require that the applicant be authorized to engage in operations in intrastate commerce as proposed in the application.
3. It can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted as set forth in the ensuing order, and also relief granted from the requirements of the Commission's Rules of Practice and Procedure which require wide distribution of the application. 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 value in rate fixing for any amount of money in excess of that originally paid to the State for the grant of such

rights. Aside from their purely permissive aspects, such rights extend 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Deacon's Delivery, Inc., a California 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 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 applicant is granted relief from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application.

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

Dated at San Francisco, California, this 10th day of APRIL, 1979.

John E. Bryan  
President  
William L. Thompson  
Richard J. Kase  
Clare T. ...  
James W. ...  
Commissioners

Deacon's Delivery, 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 for the transportation of general commodities between and within the following points and areas, serving all intermediate points on said routes and all off-route points within 20 statute miles thereof:

1. San Francisco Territory as described in Note A;
2. San Francisco Territory and Santa Rosa on U.S. Highway 101;
3. Santa Rosa and Napa on State Sign Route 12;
4. Santa Rosa and Calistoga on various unnumbered county roads;
5. Calistoga and Vallejo on State Sign Route 29;
6. San Francisco and Sacramento on Interstate Highway 80;
7. Sacramento and Marysville on State Highway 99;
8. Sacramento and Fresno on State Highway 99;
9. San Francisco Territory and Stockton on Interstate Highways 580, 205 and 5;
10. San Francisco Territory and Paso Robles on U.S. 101;
11. Monterey and Salinas on State Highway 68;
12. San Francisco Territory and Santa Cruz on State Highway 17;
13. Richmond and Stockton on State Highway 4;
14. Sunol and Martinez on Interstate Highway 680;

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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 salesman's hand sample cases, suitcases, overnight or boston bags, briefcases, 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 motor vehicles equipped for mechanical mixing in transit.

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6. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
7. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.
11. Articles of unusual or extraordinary value.
12. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.

## 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

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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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