

Decision No. 92728 FEB 18 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of DEVINE & SON TRUCKING CO., a)
corporation, for authority to)
extend its certificate of public)
convenience and necessity as a)
highway common carrier pursuant)
to Section 1063 of the Public)
Utilities Code.)

Application No. 59895
(Filed August 21, 1980)

ORDER OF DISMISSAL

Devine & Son Trucking Co. (Devine), a California corporation, is engaged in the transportation of property between specified points in California as a highway common carrier as defined in Section 213 of the Public Utilities Code (Code). Its service has been authorized by various decisions over the years, as more fully described in Appendix A to the application. Devine seeks an extension of its intrastate highway common carrier certificate to include all points and places south of the present southern boundary of its present authority to the southern boundaries of Santa Barbara, Kern, and Inyo Counties. Said expanded authority is requested pursuant to the provisions of Section 1063 of the Code.

Devine holds a general commodity common carrier certificate issued pursuant to Section 1063.5 of the Code between all points and places in California (GC-1765, File No. T-61483). Devine also holds a contract carrier permit, an agricultural carrier permit, a heavy specialized carrier permit, and a cement carrier certificate. No registered interstate operative rights are involved in this proceeding.

Specifically, Devine seeks the issuance of an in lieu certificate of public convenience and necessity authorizing the transportation of general commodities between all points and places in 52 of California's 58 counties.

Devine requests an in lieu certificate for the following reasons:

- a. The commodity descriptions and restrictions contained in its present certificate result in uncertainty, conflict, and ambiguity. This has developed because of the expanding needs of shippers and statutory changes, as well as redesignation of highways.
- b. It is difficult for its employees to quickly determine if a given commodity movement is within the commodity description of geographical coverage Section 1063 authority with the current classification descriptions.
- c. It is wasteful and time-consuming to match the commodity descriptions in its present Section 1063 authority with the current classification descriptions.
- d. New routes of travel have developed over the years that are not contemplated nor provided for in its existing Section 1063 authority.

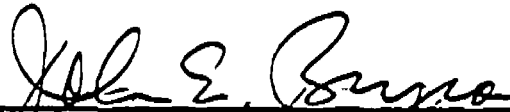
It is alleged that the granting of the authority as requested will greatly assist Devine to economically meet the needs of the expanding industrial climate of California. It will also remove existing ambiguities caused, in principal part, by changed and improved shipper practices and/or statutory changes.


Devine may perform all of the requested service, subject to any restrictions it may wish to impose, under its Section 1063.5 certificate. Moreover, Devine's duties and obligations to the public under the sought in lieu certificate and under its Section 1063.5 certificate are the same. No useful regulatory

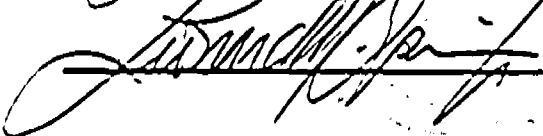
purpose would be served by the issuance of an in lieu certificate under the provisions of Section 1063 to perform the same transportation service that Devine is authorized to perform under its Section 1063.5 certificate. Because of the Commission's established policy prohibiting a carrier from holding duplicative authority, the application should be dismissed.

IT IS ORDERED that Application No. 59895 is dismissed. The effective date of this order shall be thirty days after the date hereof.

Dated FEB 18 1981, at San Francisco, California.



President




Commissioners