

ORIGINAL

Decision No. 70161

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

UNITED CLEARINGS, INC., a corporation, for a certificate of public convenience and necessity as a freight forwarder of special commodities between points in the State of California pursuant to Section 1010 of the California Public Utilities Code.

Application No. 47692
(Filed June 22, 1965)

Russell & Schureman, by R. Y. Schureman,
for applicant.
Al Krause, for Wings & Wheels Express, Inc.,
protestant.
Arthur H. Glanz, for Alco Transportation
Company, Boulevard Transportation Company,
California Cartage Company, California
Motor Transport Co., Delta Lines, Inc.,
Desert Express, Di Salvo Trucking Company,
Oregon-Nevada-California Fast Freight,
Pacific Intermountain Express Co., Pacific
Motor Trucking Company, Ringsby-Pacific, Ltd.,
Shippers Express Company, Southern California
Freight Lines, Inc., Sterling Transit Co., Inc.,
T.I.M.E. Freight, Inc., Walkup's Merchants
Express, and Willig Freight Lines; interested
parties.
George L. Hunt, for the Commission staff.

O P I N I O N

After notice to interested parties a public hearing on the above application was held before Examiner Rogers in Los Angeles on October 5, 1965, and the matter was submitted. During the hearing the application was orally amended to restrict the requested authority.

The applicant requests a certificate of public convenience and necessity authorizing it to act as a freight forwarder of business records, audit media, tabulation cards,

data processing materials, checks, drafts, securities and transit items between all points and places in California, restricted to 50 (fifty) pounds per shipment except work in process in which case the limitation is 100 (one hundred) pounds per shipment; further restricted to shipments in whole or in part by air service or by passenger stage corporation. A shipment is defined as one lot of freight moving on one shipping document from one consignor to one consignee at one time.

The applicant is a California corporation. It holds statewide highway contract carrier and city carrier permits issued by this Commission on August 5, 1957.

Applicant has its principal office and terminal in Los Angeles and has terminals in Fresno, Anaheim, Riverside, San Diego, San Francisco, Santa Maria and Visalia. It has approximately 200 employees and approximately 100 pieces of transportation equipment consisting of passenger cars, one-quarter ton pickups and small vans (Exhibit 2). All vehicles are owned by the applicant and the drivers are company employees. All vehicles stationed at branch offices are brought into Los Angeles for repairs.

As of April 30, 1965, applicant had total assets valued at \$357,775 and current liabilities amounting to \$198,957. For the eleven months ending April 30, 1965, its net income from its operations after estimated income taxes was \$60,634 (Exhibit 1).

Pursuant to arrangements between applicant and various manufacturing companies, department stores, chain stores, banks and other shippers, the applicant picks up business records,

audit media, tabulation cards, data processing materials, checks, drafts, securities and transit items at main or branch offices of shippers located throughout the State of California.

After pickup the applicant transports or arranges for the transportation of such consolidated shipments by motor vehicle to airports in the State of California from which the property is transported by air carrier to other California airports where the property is, in turn, picked up by motor vehicle and, after segregation, delivered to the shipper's office or to data processing centers. In the conduct of the operations applicant uses motor carriers, air carriers and passenger stage corporations. It provides and will provide service for any entity desiring its service and willing to pay therefor. This is the type of operation applicant seeks to continue as a freight forwarder. In performing the service of a freight forwarder applicant will assume responsibility for the through transportation of the property from origin to destination and, if granted a certificate, will continue to operate the same as at present, pursuant to tariff rates, rules and charges filed with this Commission.

In general the line haul is and will be by air line common carriers. In some instances where regular common carrier air service is not available applicant uses and will use airplanes chartered by it by the month. In these instances applicant will be both the consignor and the consignee. If airplanes cannot be used at any time, due for instance to inclement weather, applicant uses and will use stage lines as the underlying carrier.

In using common carriers applicant assesses its own rates for the pickup and delivery service and the underlying

carrier's rates for the long haul. It makes no profit on the long haul service. In addition, applicant keeps each shipment separate and does not consolidate the shipments. It plans to continue this method of operating if granted a certificate.

Applicant's business is based on expedited service. As an example, it picks up shipments until 6:00 p.m. in Los Angeles and undertakes to deliver such shipments in the San Francisco terminal at approximately 5:15 a.m. the next morning for delivery as soon as the San Francisco offices of the consignees open for business.

Applicant called two witnesses in support of its application. The companies the witnesses represented have shipments of some of the commodities applicant proposes to carry between Los Angeles and San Francisco and between numerous other points in California. Each uses applicant's services, needs such services, and desires that these services remain available as proposed by the applicant.

The application was protested by Wings & Wheels Express, Inc., a freight forwarder by air between Los Angeles and San Francisco (Decision No. 55240, dated July 9, 1957, in Application No. 38862, as modified by Decision No. 58992, dated September 15, 1959, in said application). The protestant performs a service whereby it arranges for the transportation of general freight using air carriers as the underlying carrier. This carrier has regular pickup routes, makes its last regular pickup at 4:30 p.m. and after that time assesses a special rate. It is a nationwide concern and approximately 5 per cent or less of its

total revenues are derived from operations between Los Angeles and San Francisco. Moreover, its service appears to be substantially different from the specialized service contemplated by the application.

Findings

The Commission finds that:

1. The factual matters set forth in the opinion are true.
2. Applicant is a freight forwarder as defined in Section 220 of the Public Utilities Code and a common carrier by air. Public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as a freight forwarder and that it be required to file tariffs as a common carrier by air.

Conclusions

On the foregoing findings the Commission concludes that:

1. The applicant is rendering service as a freight forwarder as defined in Section 220 of the Public Utilities Code using airline common carriers and passenger stage carriers as its underlying common carriers for service between points in California.
2. The applicant is rendering service as a common carrier by air using leased airplanes as the transportation vehicles.
3. As a freight forwarder and as a common carrier by air applicant should be required to file tariffs setting forth its rates, rules and regulations applicable for each of its types of service.
4. The Commission has jurisdiction over the applicant's proposed operations considered herein.
5. The applicant should be granted a certificate of public convenience and necessity as a freight forwarder.

United Clearings, Inc. is hereby 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 hereby granted to United Clearings, Inc., authorizing it to operate as a freight forwarder, as defined in Section 220 of the Public Utilities Code, by air or passenger stage for the transportation of the commodities specified in Appendix A attached hereto and made a part hereof, subject to the weight limitations specified in said appendix, between all points and places in the State of California.
2. Applicant shall file tariffs as a common carrier by air for that portion of its service performed by using chartered airplanes.
3. In providing service pursuant to the certificate herein granted applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted applicant is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized 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 service herein authorized.
- (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 Orders No. 117 and No. 105-A.

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

Dated at San Francisco, California, this 21th day of JANUARY, 1966.

Frederick C. Hallock
President

George E. Hoover
Commissioners

William C. DeWitt
Commissioners

APPENDIX A

Business Records

Audit Media

Tabulation Cards

Data processing materials

Checks

Drafts

Securities

Transit Items

Subject to the following restrictions:

No shipment shall exceed 50 pounds in weight from one consignor to one consignee except work in process, in which case the limitation is 100 pounds per shipment.