

ORIGINALDecision No. 70507

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of LOOMIS COURIER SERVICE, INC.,
a corporation, for a certificate
of public convenience and
necessity to institute a freight
forwarding service.

Application No. 47373
(Filed March 1, 1965)

Bertram S. Silver and George H. Hart, for
applicant.
Robert G. Irvin, for United Clearings, Inc.;
F. D. Parthlan, for Brinks, Inc.; interested
parties.

O P I N I O N

After notice to interested parties a public hearing on the above application was held before Examiner Fraser in San Francisco on June 28, 1965 and the matter was submitted on points and authorities filed on September 24, 1965. There were no protests. The matter is ready for decision.

Applicant is a California corporation. It holds a statewide permit as a highway contract carrier and a permit which authorizes operation as a city carrier within all incorporated cities in the State of California. These permits authorize the applicant to transport checks, drafts, securities, ophthalmic and optical goods, transit items and related articles, sales audit items and/or any written, printed, or reproduced documents or data.

Applicant is wholly owned by Loomis Armored Car Service, Inc. of California, a California corporation, which also holds highway contract and city carrier permits. The parent

corporation primarily engages in the transportation of coin, currency, negotiable securities and other valuables in specifically designed and constructed armored vehicles which are manned and operated by armed drivers and guards.

Applicant applies under Sections 220 and 1010 of the Public Utilities Code for a certificate of public convenience and necessity to operate as a freight forwarder of business records, audit media, tabulation cards, data processing materials, checks, drafts, securities and transit items between all points within the State of California. It was noted that Loomis Armored Car Service, Inc. and applicant have been exempted from the observance of the rates, rules and regulations prescribed by the Commission in the Commission's minimum rate tariffs pertaining to the transportation of checks, drafts and/or money orders (moving in process of clearing between banks and/or clearing houses), legal documents, business records, audit media and tabulation cards when transported in a vehicle not exceeding a licensed weight of 4,000 pounds (Decision No. 65794, dated July 30, 1963, in Cases Nos. 5432 (Pets. 271 and 272), 5435 (Pets. 40 and 41), 5439 (Pets. 22 and 23), and 5441 (Pets. 62 and 63)).

Applicant requested a determination of whether its operation is that of a contract carrier or a freight forwarder and of whether the Commission should impose rate regulation. Points and authorities were filed on the legal issues involved.

Applicant has been in business since 1961. It now operates out of district offices in Los Angeles and San Francisco which have extensive parking, maintenance, gasoline supply and storage areas with fire resistant vaults. Branch offices with storage facilities and a fuel supply are located in San Diego,

Sacramento and San Jose. Applicant has 90 employees in California, including 80 drivers and 10 supervisors. Operating equipment consists of 56 vehicles, which include station wagons, light pickup trucks and panel trucks.

Applicant's balance sheet shows total current assets (on April 30, 1965) of \$126,658 and current liabilities of \$56,069; its statement of income for the six months ending on April 30, 1965, shows a total operating revenue of \$296,349 and total operating expenses of \$260,753; income before (income) taxes is \$35,596 and net income is \$17,797.

Applicant's business developed from the service provided by its armored car affiliate. The latter carries currency or other valuables in special armored vehicles with armed guards. Customers using the armored transport frequently enclosed business records or other documents with their currency, to expedite the transfer of important records. The need for the guaranteed transfer and return of important papers developed until the traffic became too extensive to be handled by the armored car custodians. Applicant thereupon started transporting the business records in station wagons and panel trucks for less money, as a separate service. This additional service was separated from the armored car company on February 1, 1965 and since that date has been performed by Loomis Courier Service. The latter also transports data cards from varied points to computers in Los Angeles or San Francisco, where the data are recorded, then returns the cards before the start of the next business day.

An officer of applicant testified that applicant's station wagons and panel trucks pick up from various shippers

before the start of the business day. The shipments are consolidated, transported by applicant to the nearest commercial airport and then consigned to an air carrier. At the destined airport the shipments are transferred to a motor vehicle and transported to the various consignees. Applicant contracts with each customer to provide a pickup and delivery at a specified time. Where records are to be transferred from a branch office to a central point for recording and then returned to the branch, the entire operation is normally completed within a period of 24 hours. Each customer is charged a separate fee based on the service provided. When commercial carriers are used applicant pays the carrier the regular rate. If commercial transportation is not available, private transport may be hired or applicant may use its own vehicle for the entire trip, since pickup and delivery are guaranteed. Applicant serves banks, large department stores, major oil companies and other organizations of the same type. It provides a specialized service to comparatively few customers under contract.

An executive from the San Francisco main office of Wells Fargo Bank testified as follows: The bank has numerous branches from Fresno north to the Oregon line which are served by a large computer in the San Francisco office. This computer also services many customers of the main and branch banks on payrolls, accounts receivable and billing. The nature of the transactions and the schedule under which the computer is programmed necessitate a prompt delivery of records to the computer every week day and their prompt return to the originating branch before the start of the next business day.

Applicant has been providing this service and the Wells Fargo

Bank cannot obtain it from any other carrier. The bank desires that applicant be permitted to continue to render the service as proposed.

Findings

The Commission finds that:

1. Applicant is a California corporation having authority from this Commission to perform services as a carrier of property for compensation throughout the State pursuant to highway contract carrier and city carrier permits. It has been providing service as proposed by the application continuously since February 1, 1965 under said permits.

2. Applicant operates out of terminals in San Francisco, Los Angeles, San Diego, Sacramento and San Jose with 56 station wagons and light trucks.

3. Applicant is collecting individual shipments of property at varied points in this State and transporting such shipments by motor vehicle to nearby airports, consolidating said shipments into larger shipments, placing as consignor the consolidated shipments on air common carriers for transportation to one of the other points, receiving said shipments as consignee at the destination, breaking bulk thereat and thereafter delivering the individual shipments by motor vehicle. All transportation at the point of origin and at the point of destination is performed by applicant's employees. Transportation by air is at the air common carrier's applicable tariff rates and the air carrier's rates are paid by applicant. Applicant charges and collects from the customer for whom the service is performed, rates for the overall service and includes said air carrier's tariff rates. Said rates have no relation to the air carrier's tariff rates.

4. In the event air transportation cannot be used due to a fog or other difficulties applicant places the shipments on common carrier passenger stages or on the train and pays the regular tariff rate for the transportation. In an extreme emergency applicant may hire private transport or use its own vehicles.

5. Applicant performs and will perform the proposed service for any responsible person or company desiring to use the service and willing to pay the negotiated rates therefor.

6. Applicant is operating as a freight forwarder by consolidating small shipments into single large movements and by regularly using air or land common carriers to provide the necessary transportation throughout the State of California. Public convenience and necessity require that applicant be granted a certificate as a freight forwarder and that it be required to file tariffs.

Conclusions

Based on the foregoing findings the Commission concludes that:

1. Applicant is rendering service as a freight forwarder as defined in Section 220 of the Public Utilities Code, using air and land common carriers as its underlying common carriers for service between points in California.

2. As a freight forwarder applicant is required by law to file tariffs setting forth the rates, rules and regulations applicable to the service it provides.

3. The Commission has jurisdiction over applicant's proposed operations considered herein.

4. Applicant should be granted a certificate of public convenience and necessity as a freight forwarder.

5. Loomis Courier Service, 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 over a particular route. 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 Loomis Courier Service, Inc., authorizing it to operate as a freight forwarder, as defined in Section 220 of the Public Utilities Code, by air or land common carrier for the transportation of the commodities specified in Appendix A attached hereto and made a part hereof, between all points and places in the State of California.

2. 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. Applicant is placed on notice that, if it accepts the certificate of public convenience

and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D, 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 Nos. 80-A and 117.
- (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.

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

Dated at San Francisco, California, this 29th day of MARCH, 1966.

Frederick B. Hallock
President

George G. Grover

Commissioners

ds

Appendix A

LOOMIS COURIER SERVICE, INC. Original Page 1
(a corporation)

Loomis Courier Service, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the following commodities between all points and places in the State of California:

Business records
Audit media
Tabulation cards
Data processing materials
Checks
Drafts
Securities
Transit items

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 70507, Application No. 47373.