

Decision No. 74817

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
AIR DISPATCH, INC., a corporation,  
for a certificate of public conven-  
ience and necessity as an Air Freight  
Forwarder of general commodities  
between points in the State of  
California.

Application No. 50197  
(Filed April 26, 1968)

Murchison, Stebbins & Davis, by Donald Murchison,  
for applicant.  
Arthur H. Glanz, for Victorville-Barstow Truck  
Line, interested party.  
Joseph Braman and Milton J. DeBarr, for the  
Commission staff.

O P I N I O N

Air Dispatch, Inc. (applicant) requests a certificate of public convenience and necessity pursuant to Section 1010 of the Public Utilities Code to conduct business as a freight forwarder of general commodities.

A public hearing was held before Examiner O'Leary at Los Angeles on August 8, 1968 and the matter was submitted.

Applicant requests authority to ship or arrange to ship via the lines of common carriers by air, truck, and motorbus from points within twenty-five miles of Los Angeles International Airport Lockheed Air Terminal, Inc. (Burbank), Oakland International Airport, Orange County Airport, Sacramento Municipal Airport, San Diego International Airport, San Francisco International Airport, and San Jose Municipal Airport, on the one hand, to points within a twenty-five mile radius of airports serving the destination points set forth in Exhibit A attached to the application and Exhibit 8.

Counsel for Victorville-Barstow Truck Line originally appeared as a protestant; however, after applicant amended its application so as to delete the destination points of Apple Valley, Lancaster, and Palmdale, the appearance of Victorville-Barstow Truck Line was changed to that of an interested party. There are no other protests. Applicant made a further amendment so as to include Long Beach Municipal Airport as an origin point.

Applicant is presently engaged in business as a domestic air freight forwarder under Civil Aeronautics Board Operating Authority No. 142 and as an international freight forwarder under Operating Authority No. 352.

Applicant maintains offices at San Francisco and Los Angeles and has an agent at San Diego. Applicant's accounting records are maintained in Philadelphia, Pennsylvania. Applicant's representative stated that it will do all things necessary to either pay for the cost of any and all audits by a Commission representative or deliver all necessary records into the State at any time or for whatever reasons the Commission may consider necessary.

The vice president of applicant testified that the only airports utilized by applicant as origins for transportation by aircraft are Los Angeles International Airport, San Diego International Airport, and San Francisco International Airport. The witness further testified that applicant is presently performing intrastate service as well as interstate service. Exhibits 4 and 5 contain a listing of intrastate shipments which had their air transportation originate at Los Angeles International Airport during June and July 1968. The exhibits disclose 130 such shipments were handled. The western regional director of applicant testified that an average of 10 to 15 intrastate shipments a day originate in the San Francisco area.

Three witnesses engaged in the motion picture distribution business who utilize applicant's services testified that it is necessary for their firms to ship by air because, in the great majority of instances, same day delivery is required. The witnesses further testified that applicant's service has been very dependable and that they will continue to use applicant's service if the certificate is granted.

Pickup and delivery in the Los Angeles and San Francisco areas is performed by applicant in its own equipment. In the San Diego area pickup and delivery service is rendered by applicant's agent. At the points where carrier does not maintain equipment or agents, pickup and delivery will be performed by highway common carriers. Applicant will also utilize highway common carriers for pickups and deliveries beyond the 25-mile radius of the origin and destination airports at the tariff rates of the carrier utilized. In the case of an emergency, such as an airport being closed because of weather conditions which render the use of air carriers impossible, applicant intends to have the transportation between airports performed by highway common carriers and passenger stage corporations.

Applicant's balance sheet dated December 31, 1967 (Exhibit 1) shows total assets of \$3,350,901.32 and total liabilities of \$1,885,452.56. The profit and loss statements for the six months ended June 30, 1967 and December 31, 1967 (Exhibits 1 and 2) disclose a net loss of \$446,063 for the year 1967. A representative of Novo Industrial Corporation (Novo) testified that applicant is a wholly owned subsidiary of Novo. Exhibit 6 is a letter addressed to the Commission signed by the Vice President and

General Counsel of Novo advising that Novo will guarantee all obligations of applicant and is prepared to make its full corporate resources available for the furtherance and growth of applicant's business. Novo's annual report (Exhibit 7) discloses that the combined earnings of Novo and its subsidiaries during 1967 were \$822,617 and the combined assets and liabilities of Novo and its subsidiaries as of December 31, 1967 were \$28,354,024 and \$15,519,583, respectively.

The evidence presented by applicant discloses that it has been performing operations without a certificate in violation of the Public Utilities Code. While punitive action will not be taken at this time, applicant is placed on notice that any future unlawful operations will not be tolerated and any such operations will be dealt with severely.

Based on the evidence adduced, the Commission finds that:

1. Applicant presently offers a freight forwarding service by air from the Los Angeles, San Diego, and San Francisco areas to various destination points.
2. In providing said service, applicant utilizes air transportation originating at Los Angeles International Airport, San Diego International Airport, and San Francisco International Airport.
3. Applicant does not utilize air transportation originating at Lockheed Air Terminal Inc. (Burbank), Long Beach Municipal Airport, Oakland International Airport, Orange County Airport, Sacramento Municipal Airport, or San Jose Municipal Airport.
4. Public convenience and necessity require institution of the service for shipments originating within a 25-mile radius of Los Angeles International Airport, San Diego International Airport, and San Francisco International Airport.
5. Public convenience and necessity does not require the institution of service for shipments originating within a 25-mile

radius of Lockheed Air Terminal, Inc. (Burbank), Long Beach Municipal Airport, Oakland International Airport, Orange County Airport, Sacramento Municipal Airport, and San Jose Municipal Airport.

6. Applicant possesses the experience, equipment, and financial resources to institute and maintain the service herein authorized.

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

Applicant 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, these 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 Air Dispatch, Inc., a corporation, authorizing it to operate as a freight forwarder, as defined in Section 220 of the Public Utilities Code, for the transportation of general commodities between the points and subject to the conditions set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (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 file annual reports of its operations.
- (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 ten days after the effective date of this order on not less than ten 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 Order No. 117.
- (e) As a condition for acceptance of the certificate of public convenience and necessity, applicant is placed on notice that it will be required to pay for all travel expenses incurred by staff representatives examining the records outside the state or in the alternative will return all records and documents to California for examination with an employee familiar with and capable of explaining such records.
- (f) Applicant shall notify this Commission prior to any transfer of the records from Philadelphia, Pennsylvania.

- (g) Applicant shall maintain its accounting records in such a manner as to properly show revenues applicable to its California intrastate operations, and the basis or bases for investment and operating costs charged or applicable to California intrastate operations.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of OCTOBER, 1968.

William J. Lyons  
President  
William L. Bernard  
Augustine  
Frederic P. Monissey  
Commissioners

Air Dispatch, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a freight forwarder, as defined in Section 220 of the Public Utilities Code, via the lines of air common carriers, highway common carriers and passenger stage corporations, subject to the following conditions:

1. Applicant shall not arrange to ship any property unless such property shall have transportation by aircraft originate at one of the following-named airports:

Los Angeles International Airport  
San Diego International Airport  
San Francisco International Airport

on the one hand, and terminate at the following points served by air common carriers, on the other hand:

Arcata	Oxnard
Bakersfield	Palm Springs
Blythe	Paso Robles
Burbank	Red Bluff
Chico	Redding
Crescent City	Riverside
El Centro	Sacramento
Eureka	Salinas
Fresno	San Bernardino
Indio	San Diego
Inyokern	San Francisco
Laguna Beach	San Jose
Lake Tahoe	San Luis Obispo
Long Beach	Santa Ana
Los Angeles	Santa Barbara
Marysville	Santa Maria
Merced	Santa Rosa
Modesto	Stockton
Monterey	Ventura
Oakland	Visalia
Ontario	Yuba City

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2. In emergencies only, highway common carriers or passenger stage corporations may be used as underlying carriers to provide transportation between the airports specified in paragraph 1 hereof.
3. Except as provided in Condition 2, the authority to ship via the lines of highway common carriers and passenger stage corporations is limited to pickup service within a 25-mile radius of the above-named origin points and delivery service within a 25-mile radius of the airports serving the above-named destination points.

(End of Appendix A)

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