

ORIGINALDecision No. 76179

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of WITS, INC., doing business as)
 WITS AIR CARGO SERVICE, a corpo-)
 ration, for a certificate of pub-)
 lic convenience and necessity as)
 an Air Freight Forwarder of gen-)
 eral commodities between points)
 in the State of California.)

Application No. 50783
 (Filed Dec. 26, 1968;
 Amendment Filed March 17, 1969)

Milton W. Flack, for applicant.
E. C. Crawford and E. Q. Carmody,
 for the Commission staff.

O P I N I O N

Wits, Inc., a corporation, doing business as Wits Air Cargo Service, 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. There are no protests.

A public hearing was held before Examiner O'Leary at Los Angeles on June 4, 1969 and the matter was submitted.

Applicant requests authority to ship or arrange to ship via the lines of common carriers by air, truck and motor bus between points within 25 miles of Los Angeles International Airport, Lockheed Air Terminal, Inc. (Burbank), and San Francisco International Airport, on the one hand, to points located within 25 miles of the airports serving the destination points listed in Exhibit 1.

Applicant is presently engaged in business as a domestic air freight forwarder under Civil Aeronautics Board Operating Authority No. 70. Applicant also holds Operating Authority No. 166 as an international air freight forwarder.

Applicant maintains offices in California at Los Angeles and San Francisco. Exhibits 18 and 19 disclose that applicant is presently serving 20 customers in the San Francisco area and 67 customers in the Los Angeles area.

Seven persons who utilize applicant's service testified in support of the application; all of the witnesses testified that they have utilized applicant's service for both interstate and intrastate shipments.

Applicant proposes to establish door-to-door rates for service between airports including points within a 25-mile radius thereof. On traffic moving to or from points located beyond said 25-mile radius applicant will assess, in addition to its tariff rates, the lawful tariff rates of any highway common carriers engaged to perform said beyond service. In the case of an emergency, such as an airport being closed because of weather conditions which would render the use of air carriers impossible, applicant intends to have the transportation between airports performed by highway common carriers or passenger stage corporations.

Applicant's balance sheet dated March 31, 1969 (Exhibit 15) shows total assets of \$623,067.06 offset by total liabilities of \$490,763.54 and net worth of \$132,303.52. The profit and loss statements for the year ended December 31, 1968 (Exhibit 14) and for the three months ended March 31, 1969 (Exhibit 16) disclose a net income of \$17,553.17 and \$3,400.92, 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 possesses the experience and financial resources to institute and maintain the service herein authorized.
2. Public convenience and necessity require that the proposed service be authorized.

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

Wits, Inc., doing business as Wits Air Cargo Service, 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 granted to Wits, Inc., a corporation, authorizing it to operate as a freight forwarder, as defined in Section 220 of the Public Utilities Code, 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 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 Order No. 117.

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

Dated at San Francisco, California, this 16th day of SEPTEMBER, 1969.

William Lyons, Jr.
President
Augustus P. Williams
Thomas M. Williams
Vernon L. Stinson
Commissioners

Wits, 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 ship or arrange to ship any property unless such property shall have transportation by aircraft originate at one of the following airports:

Lockheed Air Terminal, Inc. (Burbank)
 Los Angeles 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 | Merced | San Bernardino |
| Bakersfield | Modesto | San Diego |
| Blythe | Monterey | San Francisco |
| Burbank | Oakland | San Jose |
| Chico | Ontario | San Luis Obispo |
| Crescent City | Orange County Airport | Santa Ana |
| El Centro | Oxnard | Santa Barbara |
| Eureka | Palm Springs | Santa Maria |
| Fresno | Paso Robles | Santa Rosa |
| Indio | Red Bluff | South Tahoe |
| Inyokern | Redding | Stockton |
| Long Beach | Riverside | Ventura |
| Los Angeles | Sacramento | Visalia |
| Marysville | Salinas | Yuba City |

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.

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3. No collection or distribution service shall be provided by Wits, Inc. to or from any point more than 25 airline miles distant from any airport served by it unless said service beyond said 25 airline miles is performed by a highway common carrier. As used herein "point" means any point within 25 airline miles of the city limits of any city in which is located an airport, or 25 airline miles of any airport located in an unincorporated area.
4. Wits, Inc. shall establish door-to-door rates for service between airports, including points within 25 miles thereof as defined in Paragraph 3 herein. On traffic moving to or from points beyond said 25-mile radius, Wits, Inc. shall, in addition to said door-to-door rates assess the lawful tariff rates of any highway common carrier utilized to perform said beyond service.

End of Appendix A

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