

MS

ORIGINAL

Decision No. 78338

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DOMESTIC AIR EXPRESS, INC., a cor-)
poration, for Certificate of Public)
Convenience and Necessity to Extend)
Freight Forwarding Authority.)

Application No. 52318
(Filed November 23, 1970)

O P I N I O N

By Decision No. 74173 in Application No. 49840 dated May 28, 1968, Domestic Air Express, Inc., was granted a certificate of public convenience and necessity authorizing operations as a freight forwarder via the lines of air common carriers between various points. By this application applicant requests that its certificate of public convenience and necessity be expanded to include additional points of origin and destination.

In addition to its activities within California applicant is engaged in the performance of air cargo transportation in interstate and foreign commerce as a domestic and international air freight forwarder under Civil Aeronautics Board Operating Authorizations No. 19 and No. 134. Said interstate and foreign commerce activities are of like character with those for which extended authority within California is here sought.

Applicant alleges that public convenience and necessity requires that it be granted a certificate of public convenience and necessity to provide service as a freight forwarder between the additional points in the State of California for the following reasons:

Applicant has operated as a domestic and an international air freight forwarder for the past several

years. It first commenced operations as a freight forwarder within the State of California approximately two years ago. Since that time it has continuously expanded its California operations in keeping with the State's population increase and the increase in both the use of aircraft for the movement of general commodities and the increased frequency of service provided by direct air carriers to points throughout the State. During the past two years there has been an intensified demand for applicant's service and it has found itself in a position of being compelled either to curtail its service or ask for increased authority commensurate with the service which its present customers and the general shipping public appear to need.

The expanded movement of air freight cargo by the applicant as an intrastate freight forwarder is also required in order for applicant to adequately provide a complete service for its customers who ship interstate. The requested authority will enable applicant to serve these shippers and the public generally and provide a service to all California points which applicant is currently serving under its existing CAB authority as is evidenced by its tariff on file with the CAB. Applicant is often requested by its shippers to provide its specialized, dependable service between the California points herein requested and applicant is desirous of providing this service for them. A grant of this authority will enable applicant to serve its shipping public more efficiently by providing a complete specialized door-

to-door service for air freight shipments moving within California.

In providing service as a freight forwarder, applicant will pick up, or cause to be picked up, commodities at all authorized origin airport cities. After consolidation, applicant will transport or arrange for transportation of such consolidated shipments by motor vehicle to origin airports, where the property will be transported by air carrier to authorized destination airports, where the property, in turn, will be picked up by motor vehicle and, after segregation, delivered to the consignee. Except under adverse weather or other emergency conditions applicant would utilize direct air carriers to perform the underlying transportation. Applicant, in performing the proposed service, would assume responsibility for the through transportation of the property from origin to destination, pursuant to tariff rates, rules and charges filed with this Commission. It would collect charges to cover the entire transportation and then pay the underlying carriers for their portion of the movement.

Applicant's proposed service would be performed on an "on call" basis and only as limited or restricted by the operating schedules of carriers operating under authorization of the Civil Aeronautics Board or this Commission.

Applicant proposes rates, rules, and regulations which are generally competitive with those which existing freight forwarders presently have on file with the Commission.

Copies of the application were served in accordance with the Commission's procedural rules.

The application was listed on the Commission's Daily Calendar of November 24, 1970. There are no protests.

The Commission finds that:

1. Applicant possesses the experience to institute and maintain the proposed service.
2. Public convenience and necessity require the proposed service to be authorized.
3. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order. The order which follows will provide, in the event the certificate is accepted for the revocation of the certificate granted by Decision No. 74173 and the issuance of a certificate in appendix form to Domestic Air Express, Inc.

Domestic Air Express, 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 Domestic Air Express, 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.

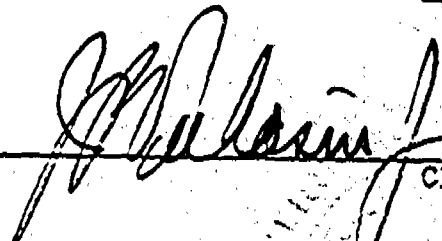
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to file 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 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 74173, which


certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

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

Dated at San Francisco, California, this 22nd
day of FEBRUARY, 1971.


Chairman




Commissioners

Commissioner William Sumner, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Domestic Air Express, 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 for the transportation of general commodities 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:

Long Beach Airport
Los Angeles International Airport
San Diego International Airport
San Francisco International Airport
Oakland International Airport
Sacramento Metropolitan Airport
San Jose Municipal Airport
Bakersfield - Meadows Field
Fresno Air Terminal
Santa Barbara Municipal Airport
Stockton Metropolitan Airport

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

Arcata
Bakersfield
Blythe
Burbank
Chico
Crescent City
El Centro
Eureka
Fresno

Indio
Inyokern
Laguna Beach
Lake Tahoe
Long Beach
Los Angeles
Marysville
Merced
Modesto

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Monterey
Oakland
Ontario
Oxnard
Palm Springs
Paso Robles
Red Bluff
Redding
Riverside
Sacramento
Salinas
San Bernardino

San Diego
San Francisco
San Jose
San Luis Obispo
Santa Ana
Santa Barbara
Santa Maria
Santa Rosa
Stockton
Ventura
Visalia
Yuba City

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.

EXCEPTION: The City of San Luis Obispo shall be deemed to be within the delivery service area of the Paso Robles County Airport.

3. Domestic Air Express, Inc. shall establish door-to-door rates for service between airports including points within 25 miles thereof as defined in paragraph 2 herein.
4. In cases of an emergency, such as an airport being closed because of weather conditions which would curtail the operations of air common carriers, highway common carriers or passenger stage corporations may be used to perform transportation between airports.

END OF APPENDIX A

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Decision No. 78338, Application No. 52318.