

Decision No. 80906**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of BURLINGTON NORTHERN AIR FREIGHT )  
 INC., a corporation, for a certifi- )  
 cate of public convenience and )  
 necessity as a freight forwarder )  
 of general commodities between )  
 points in the State of California. )

Application No. 53673  
 (Filed November 2, 1972)

O P I N I O N

This is an application by Burlington Northern Air Freight Inc. (hereinafter referred to as Burlington) in which Burlington seeks a certificate of public convenience and necessity to operate as a freight forwarder.

Burlington is a Delaware corporation qualified to do business in California. Burlington is engaged in business as a domestic air freight forwarder between all points in the United States pursuant to Operating Authorization No. 403 issued by the Civil Aeronautics Board on June 15, 1972. It is also engaged in business as an international freight forwarder pursuant to Operating Authorization No. 492 issued by the Civil Aeronautics Board on June 15, 1972.

The verified application avers that Burlington has established offices and agents at various points in California in the conduct of its interstate and foreign freight forwarder business; that if the application is granted it would establish additional agents in California in order to provide intrastate service and that the requested authority is necessary so that Burlington can give a comprehensive service to those California shippers it is presently serving in interstate and foreign commerce. There is attached to the application the declarations of six California shippers indicating their need to have Burlington provide them with intrastate as well as interstate and foreign freight forwarding service.

The application also indicates that Burlington is a subsidiary of Burlington Northern, Inc., whose additional financial resources would be available to it, if necessary. An operating statement attached to the application indicates that Burlington had gross revenues of \$675,205 since the commencement of its operations in June 1972.

Copies of the application were served on 26 freight forwarders. The Commission has received no protests to the application. The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Public convenience and necessity require that Burlington be authorized to operate as a freight forwarder, as hereinafter set forth.
3. Burlington has the ability, including financial ability, to conduct the operations for which authority is herein granted.

Conclusion of Law

The application should be granted as hereinafter set forth.

Burlington Northern Air Freight 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, 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 Burlington Northern Air Freight Inc., a corporation, authorizing it to operate as a freight forwarder as defined in Section 220 of the Public Utilities Code as more particularly 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.
- (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.
- (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.

- (f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 3rd day of JANUARY, 1973.

Vernon L. Sturgeon  
President

Frank H. ...  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Burlington Northern Air Freight Inc., a corporation, 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 operating between one of the following named airports:

Bakersfield-Kern County Airport  
Burbank Municipal Airport  
Fresno Air Terminal  
Long Beach Municipal Airport  
Los Angeles International Airport  
Merced Municipal Airport  
Modesto Municipal Airport  
Oakland International Airport  
Ontario International Airport  
Sacramento Metropolitan Airport  
San Diego International Airport  
Palmdale International Airport  
San Francisco International Airport  
San Jose Municipal Airport  
Santa Barbara Municipal Airport  
Santa Ana Municipal Airport  
Stockton Metropolitan Airport  
Visalia Municipal Airport

on the one hand, and the following points served by air common carriers, on the other hand.

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

2. In emergencies only, such as an airport being closed because of inclement weather, 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. No collection or distribution service shall be provided by Burlington Northern Air Freight 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. Burlington Northern Air Freight 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, Burlington Northern Air Freight 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)