

ORIGINAL

Decision No. 81772

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MILTON'S EXPRESS, INC., a California
corporation, for an in lieu Certificate
of Public Convenience and Necessity to
operate as a highway common carrier
for the transportation of property in
intrastate and interstate and foreign
commerce.

Application No. 54034
(Filed May 15, 1973)

O P I N I O N

Milton's Express, Inc., presently providing service as a highway common carrier for the transportation of commodities requiring the use of special refrigeration or temperature control in specially designed and constructed equipment between points in an area from Paso Robles and Bakersfield, on the north, to the San Diego Territory and Calexico, on the south, requests authority to extend service north to Madera and to extend its lateral authority from 10 miles to 15 miles. Applicant also intends to seek corresponding interstate authority in the proposed extended area. Copies of the application were served on carriers with which the proposed service might compete and on the California Trucking Association. An appropriate notice was filed in the Federal Register on May 31, 1973. No protest has been received.

Applicant proposes an on-call service Monday through Friday, with Saturday service upon request. Transit time would be overnight, except on weekends. Applicant owns and operates 71 pieces of equipment and as of December 31, 1972, indicated a net worth in the amount of \$57,631.

It is alleged that applicant has operated between points in California in intrastate and interstate commerce for many years; that it has received numerous requests from shippers having

movements of refrigerated commodities to, from, and between the points and places located in the proposed area; and that there is presently a lack of service of the type proposed by applicant in the extended area.

After consideration the Commission finds that:

1. Applicant is presently providing a specialized service for the transportation of commodities requiring refrigeration or temperature control between points within the State. Because of an increasing demand by its customers for its service in shipments moving in intrastate, interstate, and foreign commerce, applicant proposes to extend service north of Bakersfield to Madera and increase its lateral operations from 10 miles to 15 miles.

2. Applicant possesses the necessary equipment, facilities, experience, and financial ability to provide the proposed service.

3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein. A public hearing is not necessary.

4. The Commission finds with reasonable certainty that the project involved in the proceeding will not have a significant effect on the environment.

The Commission concludes that the application should be granted. Applicant's operating authority will be restated in the form of a new certificate. The territorial description of the authority granted reflects the names of redesignated highways and does not in any way exceed the geographical scope of the proposed operations as published in the Federal Register.

Applicant is 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. 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 Milton's Express, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend its 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 authorized service.

- (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. 80-Series.
- (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.

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. 79406 dated November 23, 1971 in Application No. 52807, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 21st day of AUGUST, 1973.

Vernon L. Sturgeon
President
William J. ...
[Signature]
[Signature]
Commissioners

Milton's Express, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of commodities requiring the use of special refrigeration or temperature control in specially designed and constructed equipment between:

1. All points and places in the Los Angeles Basin Territory, as described in Note A.
2. All points and places in the Los Angeles Basin Territory, on the one hand, and all points and places in the San Diego Territory, as described in Note B, on the other hand, via Interstate Highway 5, Interstate Highway 15 (U.S. Highway 395), State Highways 76 and 78.
3. All points and places in the Los Angeles Basin Territory, on the one hand, and Calexico, on the other hand, via State Highway 60, Interstate Highway 10, and State Highways 86 and 111.
4. All points and places in the Los Angeles Basin Territory, on the one hand, and Paso Robles and Morro Bay, on the other hand, via U.S. Highway 101 and State Highways 1, 23, 41, 118, 126, 150, 154, 166, and 246.
5. All points and places in the Los Angeles Basin Territory, on the one hand, and Madera, on the other hand, via Interstate Highway 5 and State Highways 14, 58, 43, 63, 65, 180, 99 and 198.

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6. All points and places in the Los Angeles Basin Territory, on the one hand, and Barstow, on the other hand, via Interstate Highway 15 and/or U.S. Highway 66.
7. Serving also, all intermediate points along said routes and all off-route points within 15 miles of said routes.

In performing the service herein authorized, applicant may make use of any and all streets, roads, highways bridges necessary or convenient for the performance of said service.

NOTE A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to MacLay Avenue; northeasterly along MacLay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly

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along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

NOTE B

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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