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ORIGINAL

Decision No. 82136

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
Speedy Transport, Incorporated, a )  
corporation, for a certificate of ) Application No. 42573  
public convenience and necessity to )  
operate as a highway common carrier. )

SECOND SUPPLEMENTAL OPINION AND ORDER

By Decision No. 76758, dated February 10, 1970, in Application No. 42573, the Commission recognized the name change of Speedy Transport, Incorporated, to Campora Fast Freight, Inc. (Campora).

Campora is a highway common carrier operating within this State pursuant to certificates of public convenience and necessity issued by this Commission. This authority is the subject of a certificate of registration, which was issued by the Interstate Commerce Commission in proceeding No. MC-120936 (Sub No. 1), dated May 10, 1965, and authorizes co-extensive operations in interstate and foreign commerce.

Campora acquired the authority to transport general commodities, with certain exceptions, by Decision No. 61587, dated February 28, 1961, in Application No. 42573. The authority granted therein was modified by Decision No. 63663 dated May 8, 1962.

A second certificate of public convenience and necessity was granted by Decision No. 63664, dated May 8, 1962, in Application No. 44039, by removing the restriction contained in Decision No. 61587, as amended, from transporting (1) poles and pilings; and (2) commodities when transported in bulk in dump trucks or in hopper-type trucks.

System 99, a corporation, is also a highway common carrier subject to the jurisdiction of this Commission and the Interstate

Commerce Commission. Its intrastate highway common carrier operating authority is the subject of some twenty decisions of this Commission, which were granted or acquired between 1960 and the present.

Authority for System 99 to conduct operations in interstate and foreign commerce is evidenced by a certificate of registration and certificates of public convenience and necessity issued by the Interstate Commerce Commission in proceedings No. MC-98327 (Sub Nos. 2, 3 and 4).

In Proceeding No. MC-F-11578, and by order issued in that proceeding, dated June 12, 1973, as modified by its order, service date of September 26, 1973, the Interstate Commerce Commission by the authority conferred in it under Section 5 of the Interstate Commerce Act authorized the transfer of that portion of Campora's operating rights between all points and places on or within 25 miles laterally of U.S. Highway 101, between Petaluma and Ukiah to System 99.

In exercising its exclusive and plenary jurisdiction, the Interstate Commerce Commission required that System 99 file with it a copy of this Commission's order approving the transfer of the corresponding intrastate rights, and if restated, a copy of the certificate as reissued to it.

A copy of the Interstate Commerce Commission's order has been filed together with a letter from applicants' attorney requesting that this Commission transfer the corresponding intrastate authority. System 99, through its attorney, also requests that it be authorized to publish the rates and rules which will govern the authority transferred, in Western Motor Tariff Bureau Tariff No. 111, Cal.P.U.C. No. 15 and Exception Sheet No. 1-A, Cal.P.U.C. No. 18, to which it is now a party.

Campora presently publishes its rates and rules in Pacific Coast Tariff Bureau's California Motor Freight, Local, Joint and Proportional Freight and Express Tariff No. 16, Cal.P.U.C. No. 1 (Express), and No. 19 (Freight), C. R. Nickerson, Agent.

It is alleged that such authorization would avoid certain technical problems and numerous inconsistencies between System 99's tariff publications and Campora's. Such inconsistencies relate primarily to the rules and regulations in the tariffs and not generally to the substance of charges or rates.

This Commission takes notice of a finding in the order of the Interstate Commerce Commission that the transfer as ordered will not significantly affect the quality of the human environment.

After consideration, the Commission finds that:

1. The transfer of that portion of Campora's intrastate authority, corresponding to the interstate rights authorized to be transferred by the Interstate Commerce Commission in Proceeding No. MC-F-11578, will not be adverse to the public interest.

2. System 99 should be authorized to publish rates, rules and charges governing the highway common carrier authority to be transferred to it, in Western Motor Tariff Bureau's tariff publications.

3. Increases in the rates and charges, which may occur as a result of their publication in the tariffs to which System 99 is now a party, are justified.

4. In order to assist the Commission in its regulatory function, and the public as consumer, the authority to be transferred to System 99 should be restated in the form of a new certificate.

5. In addition, and for the reasons stated in the finding above, all of the highway common carrier operating authority held by System 99 should later be restated in the form of a single certificate.

6. A public hearing is not necessary.

The Commission concludes that:

1. The transfer should be authorized.

2. System 99 should be authorized to file, for the operation of such authority, under its present tariffs with Western Motor Tariff Bureau.

3. The authority to be transferred to System 99 should be reissued in the form of a new certificate as provided by the order herein.

4. All of System 99's highway common carrier authority should later be consolidated and restated in the form of a single certificate. The order which follows will provide for the submission by System 99 of the necessary basic descriptions to accomplish this purpose.

The order which follows will provide for the reissuance to System 99 of that portion of Campora's operating authority, authorizing the transportation of the property previously stated, between all points and places on or within 25 miles laterally of U.S. Highway 101, between Petaluma and Ukiah. Such reissued certificate shall not exceed in scope the same portion of the authority presently possessed by Campora. Campora's operating authority will be amended to reflect the transfer.

System 99, a corporation, 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.

ORDER

1. On or before August 1, 1974, Campora Fast Freight, Inc., may transfer, and System 99, may acquire, that portion of Campora's operating authority described in the opinion portion of this decision.

2. Within thirty days after the transfer System 99 shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. System 99 is authorized to publish the applicable rates and charges with Western Motor Tariff Bureau.

4. Applicants shall amend or reissue tariffs on file with the Commission, naming rates and rules governing the common carrier operations as authorized by the order herein. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series. Failure to comply with and observe the provisions of General Order No. 80-Series may result in a cancellation of the authority granted by this decision.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the

tariff filings required by paragraph 4, (1) a certificate of public convenience and necessity is granted to System 99, 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 route set forth in Appendix B, attached hereto and made a part hereof; and (2) Appendix A of Decision No. 61537, as amended by Decision Nos. 63663 and 63664, is further amended by incorporating therein Second Revised Page 1 and First Revised Page 2, attached hereto, in revision of First Revised Page 1 and Original Page 2, respectively.

6. Within one hundred eighty days after the effective date of this order System 99 shall submit to this Commission a proposed in-lieu certificate of public convenience and necessity describing and consolidating all of its highway common carrier operating authorities as granted by this Commission. Such proposed certificate shall reflect the current designations of highways and roads as used to describe its authority and shall not, unless submitted with a proper application, exceed in any way the scope of the authority authorized by the Commission in the decisions it is intended to replace. To the extent possible, System 99 shall, in submitting the proposed in-lieu certificate, eliminate any overlapping and duplicate authorities that may now exist.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of November, 1973.

Vernon L. Spurgeon  
President  
William L. Spurgeon, Jr.  
L. H. Mann  
[Signature]  
[Signature]  
Commissioners

Campora Fast Freight, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is hereby authorized to transport general commodities as follows:

- A. Between San Francisco, Richmond and Oakland Pickup and Delivery Zone as described in Appendix B attached hereto, on the one hand, and Fremont, Milpitas, Palo Alto, Redwood City, San Jose, Santa Clara and San Mateo, on the other hand.
- B. Between all points and places within the Counties of Contra Costa, Sacramento, San Joaquin, Stanislaus and Merced.
- C. Between all points and places on or within 25 miles laterally of the following highways:
  - 1. U.S. Highway 101 between Sausalito and Petaluma, inclusive.
  - 2. U.S. Highways 99, 99E and 99W between San Fernando and Redding, inclusive. (See Restrictions, Paragraph I of this Appendix.)
  - 3. U.S. Highway 50 between Hayward and the Nevada State Line, inclusive.
  - 4. U.S. Highway 40 between Sacramento and the Nevada State Line, inclusive.
  - 5. State Highway 120 between its junction with U.S. Highway 50 near Lathrop and Manteca, inclusive.
  - 6. State Highway 33 between its junction with U.S. Highway 50 near Tracy and Los Banos, inclusive.

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7. State Highway 152 between Los Banos and Califa, inclusive.
8. State Highway 89 between its junction with U.S. Highway 40 near Truckee and Tahoe Valley, inclusive.
9. State Highway 28 between Tahoe City and the Nevada State Line, inclusive.
- D. Between San Francisco Territory as described in Appendix C attached hereto, Los Angeles Basin Territory as described in Appendix D attached hereto and all points and places in B and C above.
- E. Through routes and rates may be established between any and all points and places in subparagraphs B, C, and D above.
- F. Applicant may use any and all highways and roads between the areas described for operating convenience only.
- G. No local service is authorized between:
  1. Points and places within the San Francisco Territory.
  2. Points and places within the Los Angeles Basin Territory.
  3. Points within the San Francisco Territory, on the one hand, and points on U.S. Highway 101, between Sausalito and Petaluma, inclusive, on the other hand.



System 99, 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 general commodities, including poles and pilings, and commodities when transported in bulk in dump trucks or in hopper-type trucks:

1. Between all points and places on or within 25 miles laterally of U.S. Highway 101 between Petaluma and Ukiah.

Restriction: No local service is authorized between points within the San Francisco Territory, as described in Note A, on the one hand, and points on U.S. Highway 101, between Petaluma and Ukiah, inclusive, on the other hand.

Carrier may use any and all highways and roads within the area described in 1 above, for operating convenience only.

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.

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3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
6. Logs.
7. Fresh or green fruits or vegetables (not cold pack nor frozen) when:
  - (a) The point of destination is a cannery, accumulation station, cold storage plant, precooling plant or winery.
  - (b) Transported from the field or point of growth to a packing plant, or packing shed, except for the transportation of citrus in field boxes or in bulk, or avocados, the provisions of this subparagraph 7, will not apply when the distance between point of origin and point of destination exceeds 50 constructive miles.
  - (c) For the transportation of sugar beets, the point of destination is a beet sugar factory or a railroad loading dump.

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## NOTE A

## SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Millsdale Avenue; easterly along Millsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

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