

ORIGINAL

Decision No. 82198

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PENINSULA AIR DELIVERY, INC. for a
certificate of public convenience
and necessity authorizing the
transportation of general commodities
between points within San Francisco
Territory.

Application No. 54205
(Filed July 26, 1973)

OPINION AND ORDER

Applicant Peninsula Air Delivery, a California corporation, requests a certificate of public convenience and necessity to operate as a highway common carrier in the transportation of general commodities, with exceptions, between points in the San Francisco Territory as more particularly described in Appendix A attached hereto and by this reference made a part hereof. Applicant also requests a concurrent finding that public convenience and necessity require a corresponding service in interstate and foreign commerce. The certificate of service included in the application shows that the application was served on motor carriers whose operations may be competitive with the proposed operations. In addition the application was notice in the Federal Register of August 27, 1973 as well as the Commission's Daily Calendar of July 24, 1973. No objections have been received to the granting of the application.

Applicant operates in intrastate commerce as a radial highway common carrier and a highway contract carrier under permits issued by this Commission. It also operates as a motor carrier in interstate and foreign commerce under a certificate issued by the Interstate Commerce Commission for the transportation of commodities having a prior or subsequent movement by air between the San Francisco airport and nearby points. The application shows that applicant

operates with 20 trucks and tractors and an assortment of trailers and miscellaneous trucking equipment; that it has a terminal located at Mountain View; that as of July 31, 1972 it had a net worth of \$73,557 and for the fiscal year ending on that date it had a net income from operations of \$57,910 on a gross revenue of \$761,389. Applicant asserts that it intends to conduct the proposed operations out of its present Mountain View terminal with the equipment it presently owns but that if additional equipment is needed it is prepared to secure it. Applicant claims to have in effect a program of compliance with federal, state, and local safety laws, rules, and regulations. Applicant asserts that the proposed operation will be daily Monday through Friday with same day or overnight service being given, depending on the time of day requests for service are received. Applicant states that the requirements of the shipping public have constantly increased since the inception of its present operations and that applicant has met these requirements but that the frequency of service has now increased to such an extent that a motor common carrier certificate is a more appropriate authority under which to continue the operation.

Eight shippers located throughout the area proposed to be served by applicant submitted affidavits in support of the application: Fairchild Semiconductor, a division of Fairchild Camera and Instrument Corporation (Fairchild); Quantor; Wallpaper, Inc.; Data Disc Incorporated (Data); the Ultek Division of the Perkin-Elmer Corporation (Ultek); General Recorded Tape, Inc. (General); International Plasma Corporation (International); and International Video Corporation (Video). In general the supporting shippers assert that intrastate and interstate truck service by existing carriers, except that of applicant within the involved area, is unsatisfactory and not responsive to the shippers' needs. The shippers assert that they have used applicant's service and found it to be efficient and highly satisfactory and want to continue its use on a common carrier

basis. The shippers particularly like the prompt pick-up service performed by applicant through applicant's use of radio dispatched equipment of various sizes.

Fairchild expects to tender approximately 600,000 pounds of freight per month to applicant if this application is granted; Data 8,000 pounds per month; Ultek 10,000 pounds per month; International 12,000 pounds per month; and Wallpaper, Inc. 4,000 pounds per month. Seven of the supporting shippers claim they have not previously supported any prior application seeking the authority to perform the service proposed in the application. All the supporting shippers will use applicant's proposed interstate, foreign, and intrastate service if the application is granted.

After consideration the Commission finds that applicant possesses the necessary equipment, experience, personnel, and financial ability to conduct the proposed service, and that 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 this decision. The Commission further finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description of the authority granted reflect the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

Peninsula Air Delivery 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 Peninsula Air Delivery, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points 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 a 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 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 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.

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

Dated at San Francisco, California, this 4th day of DECEMBER, 1973.

I dissent:

[Signature], Commissioner

[Signature]
President
[Signature]
[Signature]
Commissioners

Peninsula Air Delivery, 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:

Between all points and places in or within 5 miles of the San Francisco Territory as described in Note A.

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.
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.

Issued by California Public Utilities Commission.

Decision No. 82198, Application No. 54205.

5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Commodities of unusual or extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives or dangerous articles.

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

Issued by California Public Utilities Commission.

Decision No. 82198, Application No. 54205.

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 Hillsdale Avenue; easterly along Hillsdale 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; southwesterly 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.

(END OF APPENDIX A)

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Decision No. 82198, Application No. 54205.