

ORIGINAL

Decision No. 82604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SYSTEM 101, a corporation, for an extension of its Certificate of Public Convenience and Necessity to operate as a highway common carrier for the transportation of property in intra-state and interstate and foreign commerce. (Amended title.)

Application No. 52253

Karl K. Roos, Attorney at Law, for applicant.^{1/}
Donald Murchison, Attorney at Law, for Auto Fast Freight, Inc., Joseph N. LeBow dba Desert Empire Express, La Salle Trucking Company, California Cartage Company, James H. Carr and Charles A. Carr dba Carr Bros., Oxnard Trucking Service, Los Angeles City Express, Inc., Milton's Express, Inc., Swift Transportation Company, Reliable Delivery Service, Inc., Pacific Motor Trucking Company, Delta Lines, Inc., and System 99 Express; Carl H. Fritze, Attorney at Law, for Brake Delivery Service, City Transfer, Inc., G & H Transportation, Inc., Griley Security Freight Lines, Imperial Truck Lines, Inc., Rozay's Transfer, Qwikway Trucking Co., and Smith Transportation Co.; protestants.
Milton W. Flack, Attorney at Law, for Security Transport Service and Distributing Corp.; John T. Underwood, for Transport Business Service, Inc.; and W. J. Burnham, for the Internal Revenue Service; interested parties.
Robert J. Strouse, for the Commission staff.

^{1/} Applicant substituted Karl K. Roos as its attorney of record in place of Knapp, Gill, Hibbert & Stevens.

OPINION AND ORDER ON REHEARING

By Decision No. 80497 dated September 19, 1972, System 101 was granted a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of general commodities, with certain exceptions, between points within an area from Salinas, on the north, to San Diego, on the south. The Commission also found a corresponding need for applicant's service in shipments moving in interstate and foreign commerce between points within the same area. The effective date of said decision was stayed by a petition for rehearing filed on September 29, 1972.

By Decision No. 81253 dated April 10, 1973, the Commission granted rehearing for the purpose of determining "whether applicant has the financial resources, sufficient personnel and equipment, and the facilities to institute and maintain the proposed service".

Rehearing was held before Examiner Daly on January 29, 1974 at Los Angeles at which time and place the matter was again taken under submission.

Applicant offered no additional evidence, but through its attorney made a motion that Security Transport Service and Distributing Corp. be substituted in the place of System 101 in this application proceeding and that the matter be continued to a future date for the purpose of permitting Security Transport and Distributing Corp. to introduce evidence as to its equipment, personnel, facilities, and financial ability. A representative from the United States Internal Revenue Service appeared in support of the motion and testified that the assets of applicant had been seized by the Federal Government to

satisfy back taxes. The motion was denied on the ground that rehearing was limited to a showing by applicant and on the further ground that Decision No. 80497 had been stayed by the timely filing of a petition for rehearing and therefore conveyed no certificated right upon applicant that could be made the subject of either transfer or seizure.

The staff introduced Exhibit 1A which indicates that applicant's existing operating authority had been suspended on numerous occasions since January 16, 1973 for various reasons, including failure to provide information upon request, failure to pay fines and rate fund fees, and for failure to maintain required liability insurance on file. The last suspension was by Commission Resolution 17245 dated December 4, 1973 for applicant's failure to respond to two information requests and failure to pay two \$25 fines. On January 28, 1974 applicant filed a certificate of insurance and paid fines in the total amount of \$75, plus a \$150 reinstatement fee for the certificate required by General Order No. 100-H.

Exhibit 1A also indicates that applicant was suspended by the Secretary of State on February 1, 1973 for failure to pay state taxes.

After consideration the Commission finds that System 101 does not have the requisite financial resources, equipment, or facilities to perform the proposed service. The Commission concludes that the application should be denied.

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IT IS ORDERED that Decision No. 80497 is vacated and Application No. 52253 is denied.

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

Dated at San Francisco, California, this 19th
day of MARCH, 1974.

Thomas L. Sturgeon
President
William J. Simon
J. P. Sullivan
San Diego
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.