

Decision No. 82896

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of WEBSTER DELIVERY SERVICE, INC.,
a corporation, for a certificate
of public convenience and neces-
sity authorizing extension of
presently certificated service as
a highway common carrier of gen-
eral commodities to include serv-
ice between various additional
points and places in Southern
California.

Application No. 53996
(Filed April 26, 1973;
amended August 15, 1973
and March 4, 1974)

Jeffrey T. Oberman, Attorney at Law, for applicant.
Russell & Schureman, by R. Y. Schureman, Attorney
at Law, for City Transfer, Inc., G & H Transpor-
tation, Griley Freightlines, and Victorville-
Barstow Truck Line; and Walt A. Steiger, Attorney
at Law, for Pacific Motor Trucking Company;
protestants.

O P I N I O N

Applicant operates as a highway common carrier in intra-
state and, by registration with the Interstate Commerce Commission,
in interstate and foreign commerce in the transportation of speci-
fied commodities within a described portion of the Los Angeles
Territory. The certificate was granted to its predecessor company
by Decision No. 53816 dated September 25, 1956 in Application
No. 36440 and transferred to it by Decision No. 64845 dated
January 29, 1963 in Application No. 45023. It also holds radial
highway common carrier and highway contract carrier permits. By
this application, as amended on August 15, 1973, applicant seeks an
extension of its certificate to include the entire Los Angeles Basin
Territory and service to Newhall, Palmdale, Lancaster, and Saugus,
and it also seeks interstate and foreign commerce authority to the
extended areas.

Public hearing was held before Examiner Mooney in Los
Angeles on January 3 and 4 and March 4, 1974. On the latter date,

applicant further amended the application by deleting the request to serve the sought additional area in interstate and foreign commerce and the request to serve Newhall, Palmdale, Lancaster, and Saugus, and by adding baskets and ladders to the list of commodities it is authorized to transport under its present certificate and seeks to transport in the amended extended area. Upon this amendment, the protestants withdrew their objections to the application, and the matter was submitted.

Applicant has a leased terminal in Los Angeles which includes approximately 40,000 square feet of dock space, approximately 3,000 square feet of maintenance area, and a rail siding for 5 cars. It has 48 employees and operates 32 trucks, 14 tractors, 12 trailers, and other supplemental equipment. All of applicant's stock is owned by J. & J. Webster, Inc., which also wholly owns Apollo Distribution Company, which is in the business of holding goods for one customer. For the first 9 months in 1972, its gross revenue was \$670,308, and its net income after expenses, income taxes, and other adjustments was \$9,036. No later financial data were available. For the same 9 months in 1973, the consolidated financial statements for the parent company, which includes both subsidiary companies, show assets of \$296,793, liabilities of \$189,396, stockholders' equity of \$107,397, and a net income after taxes of \$73,012.

The following evidence was presented by the president of applicant, who is also the president of the parent company, secretary of Apollo, and a member of the board of directors of each of the 3 companies: Applicant was founded by the president's father in 1933, and the family has operated the business since that time; it was originally a textile delivery company, and now transports general commodities under its permits and specified commodities, including dry goods, cloth, drugs, electrical appliances, furniture, hardware, machinery, and various miscellaneous items, under its current certificate; in its present certificated area, applicant provides same-day or over-night service depending on when the goods are received

and would provide a similar type of service in the sought extended area; both the number of shippers served by applicant and the volume of business handled by them have been continually growing; applicant has been serving the sought area under its permits, but with the increased requests for service to this area, a certificate is a more appropriate authority to continue this operation; if applicant cannot comply with these requests from its customers, it will lose their business to competitors who can; it has already lost business to United Parcel Service when that company increased the weight limitation on shipments it will handle under its permitted authority from 25 to 75 pounds and because many large department stores have adopted a policy whereby all freight is delivered to a single distribution center rather than to branch stores; applicant has a continuing, comprehensive safety program and adequate insurance coverage; and applicant has taken steps to assure a more economical use of equipment by making sure that it is loaded as close to capacity as possible, and by so doing is certain that the additional service, if authorized, will create no problem insofar as fuel availability is concerned.

Representatives of 12 shippers testified in support of the application. All use applicant within its present certificated area and would use its common carrier service to the sought extended area. They ship a variety of items including fabrics, dry goods, sleeping bags, ski jackets, shoes, hosiery, garments, curtains, drapes, bedspreads, baskets, rattan furniture, plastic counter tops, and giftware. The majority of their shipments are between 80 to 500 pounds with some ranging up to 10,000 pounds. Most use United Parcel Service for smaller shipments. Some also use applicant for inbound shipments. The representatives testified that applicant gives personal attention to their transportation needs; that it will handle emergency shipments when requested; and that their claim experience with applicant has been extremely favorable.

We are of the opinion that the application, as amended, should be granted. An in-lieu certificate in appendix form will be issued to applicant. To avoid any confusion as to what portion of the certificate is covered by interstate authority, it will be stated in two parts. One part will include applicant's present certificate for which it has interstate authority with additional authority to transport baskets and ladders. The other part will encompass the extended area for which no interstate authority is sought. Since two additional commodities, baskets and ladders, are being added to the present items applicant is authorized to transport, it will be necessary for applicant to register the additional commodities with the Interstate Commerce Commission if it is to transport them in interstate and foreign commerce within its present certificated area. By stating the in-lieu certificate in two parts, applicant can register the portion covered by its current certificate plus the baskets and ladders with the Interstate Commerce Commission.

Findings

1. Applicant possesses the necessary equipment, experience, personnel, and financial ability to institute, maintain, and conduct the proposed service.
2. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application, as amended, and also require that applicant be authorized to transport baskets and ladders in interstate and foreign commerce within the area covered by its current certificated authority which is registered with the Interstate Commerce Commission.
3. It is reasonably certain that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order.

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 Webster Delivery Service, 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 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 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 Decisions Nos. 53816 and 64845,

which certificate is revoked 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 MAY, 1974.

Vernon L. Stevenson
President
William J. Quinn
[Signature]
[Signature]
Commissioners

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

Commissioner D. W. Holmes, being
necessarily absent, did not participate
in the disposition of this proceeding.

Webster Delivery Service, 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 the following commodities as listed in the item numbers shown of Western Classification No. 75, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto:

1. Abrasives; items 5 thru 45.
2. Advertising matter; items 225 thru 330.
3. Cloth, dry goods or fabrics; items 12550 thru 12885.
4. Drugs, medicines or toilet preparations, viz.:
perfumery.
5. Electrical appliances or equipment, or parts named;
items 15605 thru 16250.
6. Floor coverings; items 17865 thru 17965.
7. Furniture; items 19495 thru 20494.
8. Games or toys; items 20670 thru 20870.
9. Glassware; items 21265 thru 21585.
10. Hardware; items 22455 thru 23660.
11. Machinery or machines, or parts named; items 27145
thru 31920.
12. Pads or padding; items 35125 thru 35155.
13. Sheet steel ware; items 40245 thru 40490.
14. Stationery; items 41203 thru 41290.
15. Trunks or traveling bags; items 43240 thru 43280.
16. Miscellaneous commodities, viz.:
Baskets;
Boots or shoes;
Buckles, clothing;
Clocks;
Clothing;
Hosiery;
Ladders;
Notions;

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Pillows;
Rubber, foam;
Silver plated ware, not on silver;
Synthetic resin articles;
Towels, or toweling, paper; and watches.

- I. Between all points and places in the Los Angeles Basin Territory as described in Note A, in intrastate commerce.
- II. Between all points and places in that portion of the Los Angeles Territory, as described in Note B, in interstate and foreign commerce, conditioned upon issuance of a Certificate of Registration pursuant to Section 206(a)(6) of the Interstate Commerce Act.
- III. The authority granted herein is subject to the following condition:

Whenever Webster Delivery Service, Inc., engages other carriers for the transportation of property of J & J Webster, Inc., and/or Apollo Distribution Company and/or Webster Delivery Service, Inc., or customers or suppliers of said corporations, Webster Delivery Service, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in Webster Delivery Service, Inc.'s tariffs on file with this Commission.

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

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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 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

PORTION OF THE LOS ANGELES TERRITORY

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly along Sunset Boulevard to its intersection with Interstate Highway 405; northerly on Interstate Highway 405 to State Highway 118; thence northerly along State Highway 118 to Brand Boulevard; northeasterly on Brand Boulevard thru and including the City of San Fernando to the intersection with Foothill Boulevard; northeasterly on Foothill Boulevard, continuing southeasterly on State Highway 118 thru and including the City of Pasadena to Walnut Street; easterly on Walnut Street and continuing on Foothill Boulevard to State Highway 19 (Rosemead Boulevard); southerly on State Highway 19 to the Whittier Narrows Dam; easterly along the Whittier Narrows Dam to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Carson Street; easterly on Carson Street to the Los Angeles-Orange County boundary line; southerly along said county line to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to the point of beginning.

(END OF APPENDIX A)

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