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JR
Decision No. 83792

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of STEPHEN G. CASTELLAN, an indi-)
vidual, doing business as KASTELAN)
COURIER SERVICE, for a certificate)
of public convenience and necessity)
as a freight forwarder between)
points in the State of California.)

Application No. 54503
(Filed December 11, 1973;
amended February 15, 1974)

Milton W. Flack, Attorney at Law, for
applicant.
William P. Campana, for the Commission
staff.

O P I N I O N

Stephen G. Castellan (Castellan), dba Kastelan Courier Service, seeks a certificate of public convenience and necessity to operate as a freight forwarder via the lines of air common carriers, highway common carriers, and passenger stage corporations between all points and places within the State of California pursuant to Sections 220 and 1010 of the Public Utilities Code. On February 15, 1974 Castellan amended his application to limit his scope of operations as an air freight forwarder to shipments to be transported by aircraft whose point of origin is Lockheed Air Terminal (Burbank), Los Angeles International Airport, or San Francisco International Airport, on the one hand, and terminating at 42 different points in California served by air common carriers. The original authority sought was further limited to shipments not exceeding 25 pounds from one consignor to one consignee, except work in process in which the limitation would be 50 pounds per shipment.

Two protests to the application were filed. One protest was withdrawn prior to hearing. The second protestant failed to appear at the hearing.

After duly noticed publication, hearing was held on April 11, 1974 in Los Angeles before Examiner Bernard A. Peeters, and submitted on that date.

Discussion

Castellan testified on his own behalf and sponsored three exhibits consisting of an equipment list, a listing of courier accounts, and his financial statements. Seven witnesses appeared and testified on behalf of Castellan. An offer of proof was made pertaining to two other specific witnesses, and others, if required, but it was acknowledged that their testimony would be cumulative.

Castellan holds a radial highway common carrier permit issued September 29, 1967 authorizing him to transport general commodities throughout the State.

Since the issuance of the permit, Castellan has conducted a courier service, i.e., a messenger service transporting documents and small packages weighing less than 10 pounds in passenger vehicles within the Los Angeles area. He operates 3 station wagons, 4 sedans, and 1 Ford Courier pickup; employs 7 drivers, plus himself; and maintains offices in San Pedro, Los Angeles, and San Francisco.

Exhibit 2 shows that he has 50 courier accounts consisting primarily of data processing firms, steamship companies, steamship agents, and savings and loan associations. Exhibit 3, the financial statement, shows that, as of December 31, 1973, Castellan had a net worth of \$75,550 and earned a net profit before income taxes of \$51,063 for the year ending December 31, 1973.

Castellan testified that he provides a specialized and personalized courier service, providing pickup and delivery service at other than normal business hours so that the documents will be on hand in the customers' offices before the beginning of the normal business day. For this service he charges a flat monthly rate, depending upon the number of round trips per day he makes between a customer's office in Los Angeles and San Pedro, or other location. At the request of a number of customers, Castellan has handled shipments of documents between the Los Angeles and San Francisco/Oakland offices of the customer, utilizing a commercial air carrier (PSA) and delivering in his own equipment in San Francisco/Oakland. This service has grown to where Castellan is consolidating shipments to and from San Francisco on a daily basis and, therefore, to be able to continue this operation lawfully, he seeks authority to operate as a freight forwarder.

Castellan also testified that he has seven shippers who make daily shipments from the Los Angeles area via air to their offices in San Francisco. At the hearing, Castellan amended his application to increase the weight of shipments from 25 pounds to 50 pounds. He proposes to perform pickup and delivery service within 25 airline miles of the airports. For shipments beyond, he will use highway common carriers. He proposes to publish door-to-door rates for his freight forwarder operation, similar to those published by Emery Air Freight, on a competitive level.

All seven witnesses testified that they are currently using Castellan's courier service and are very well pleased with the personalized service he provides. They also testified that they have a need for freight forwarder service to and from San Francisco and points beyond for the kind of shipments handled by Castellan, and that they have been using Castellan to perform this service. They also testified that they are aware there are other

freight forwarders available, but that they do not provide the personalized service available from Castellán. These seven shippers stated that they had used Castellán's courier service for a number of years and that if he is authorized to operate as a freight forwarder they would give all of their forwarding business involving courier service to Castellán. All shippers anticipate that Castellán's charges for freight forwarder service would be competitive. Some were not concerned with what the charges would be since they were more interested in, and required, the specialized service Castellán is willing to perform. All expressed their desire to have one carrier who would provide not only the courier service, but also the consolidating services of a freight forwarder. Such a carrier would meet their needs for a more efficient and reliable operation of their business insofar as transporting documents between their offices is concerned.

During the pendency of this application, the Commission issued a decision which held that carriers performing courier operations in combination with air freight or air baggage operations required certificates of public convenience and necessity as either a freight forwarder or an express corporation, depending upon the combination, and must publish door-to-door rates. (Decision No. 81774 dated August 2, 1973, made effective on July 30, 1974 by Decision No. 83222.)

Castellán's combination ground-air courier freight operation falls within the definition of a freight forwarder contained in Section 220 of the Public Utilities Code and therefore requires a certificate of public convenience and necessity.

Findings

1. The combination ground-air courier service performed by Castellán meets all of the requisites of the definition of a freight forwarder as defined in Section 220 of the Public Utilities Code.
2. Public convenience and necessity require that a certificate of public convenience and necessity to operate as a freight forwarder be issued to Castellán.

3. Applicant may perform, within 25 airline miles of the origin and destination air terminals, incidental pickup and delivery service.

4. Pickup and delivery service over longer distances should be performed by common carriers.

5. The 25-mile pickup and delivery limits in 3 above shall apply from the city limits in which the airport is located, or 25 miles of any airport located in an unincorporated area.

6. Castellan has the financial capability to conduct a freight forwarder operation.

7. The tariffs required to be filed should contain door-to-door rates.

8. Shipments should be limited to packages weighing 50 pounds or less from one consignor to one consignee.

9. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

Stephen G. Castellan 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 Stephen G. Castellan authorizing him to operate as a freight forwarder as defined in Section 220 of the Public Utilities Code as more particularly set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with and observe 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.
- (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. 117-Series. Door-to-door rates shall be published.
- (e) Applicant shall file with the Commission on or before March 31 of each year, an annual report of his 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, he shall make the appropriate tariff filings required by the General Order.

- (g) Applicant shall comply with the requirements of the Commission's General Order No. 100-Series if applicant intends to operate a motor vehicle under this authority.

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

Dated at San Francisco, California, this 10th day of DECEMBER, 1974.

Verano L. L. L. L.
President
William J. L. L.
Thomas M. L. L.
Robert E. L. L.
Commissioners

STEPHEN G. CASTELLAN
(an individual)
doing business as
KASTELAN COURIER SERVICE

Stephen G. Castellan, an individual, doing business as Kastelan Courier Service, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a freight forwarder as defined in Section 220 of the Public Utilities Code via the lines of air common carriers, highway common carriers and passenger stage corporations subject to the following conditions:

1. Shipments shall not exceed 50 pounds from one consignor to one consignee.
2. Kastelan Courier Service shall not ship or arrange to ship any property unless such property shall have transportation by aircraft originating at one of the following airports:

Lockheed Air Terminal, Inc. (Burbank)

Los Angeles International Airport

San Francisco International Airport

on the one hand and terminating at the following points served by air common carriers, on the other hand:

Arcata	Merced	San Bernardino
Bakersfield	Modesto	San Diego
Blythe	Monterey	San Francisco
Burbank	Oakland	San Jose
Chico	Ontario	San Luis Obispo
Crescent City	Orange County Airport	Santa Ana
El Centro	Oxnard	Santa Barbara
Eureka	Palm Springs	Santa Maria
Fresno	Paso Robles	Santa Rosa
Indio	Red Bluff	South Tahoe
Inyokern	Redding	Stockton
Long Beach	Riverside	Ventura
Los Angeles	Sacramento	Visalia
Marysville	Salinas	Yuba

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3. In emergencies only, such as an airport being closed because of inclement weather, highway common carriers or passenger stage corporations may be used as underlying carriers to provide transportation between the airports specified in Paragraph 2 above.
4. No collection or distribution service shall be provided by Kastelan Courier Service to or from any point more than 25 airline miles distant from any airport served by it unless said service beyond said 25 airline miles is performed by a highway common carrier. As used herein "point" means any point within 25 airline miles of the city limits of any city in which is located an airport or 25 airline miles of any airport located in an unincorporated area.
5. Kastelan Courier Service shall establish door-to-door rates for service between airports including points within 25 airline miles thereof as defined in Paragraph 2 herein. On traffic moving to or from points beyond said 25 airline miles radius, Kastelan Courier Service shall, in addition to said door-to-door rates, assess the lawful tariff rates of any highway common carrier utilized to perform said beyond service.

(END OF APPENDIX A)