

Decision No. 84376**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JOHN S. LOPES, JR., an Individual,
doing business as LOPES TRUCKING
SERVICE, for a Certificate of Public
Convenience and Necessity authorizing
the transportation of general commodities
in intrastate, interstate and foreign
commerce.

Application No. 55197
(Filed September 24, 1974;
amended February 26, 1975,
March 5 and 12, 1975)

E. H. Griffiths, for applicant.
Marquam C. George, Attorney at Law, for
Moore Truck Lines, protestant.
Marshall Berol, Attorney at Law, for
Delta Lines, Inc., interested party.

O P I N I O N

By its original application, Lopes Trucking Service, Inc., a California corporation,^{1/} requested a certificate of public convenience and necessity authorizing the transportation of general commodities between points within an area from San Francisco, Dunnigan, and Sacramento, on the north, to Lost Hills and Bakersfield, on the south. Corresponding authority to provide the same service for shipments running in interstate and foreign commerce was also requested. Copies of the application were served upon existing carriers with which its proposed service might compete and an appropriate notice was published in the Federal Register on October 17, 1974. Protests were received and a public hearing was held before Examiner Daly at San Francisco on March 5, 1975.

^{1/} The application was originally filed in the name of John S. Lopes, Jr., as an individual, but was subsequently amended and the newly formed corporation was substituted as applicant.

Prior to the hearing applicant filed two amendments to the application. The first amendment restricted service to shipments of 20,000 pounds or more. The second amendment restricted the service area for general commodities and requested authority to transport specified commodities from Chowchilla, Firebaugh, Dos Palos, and Dixon to Alameda, Oakland, Richmond, and San Francisco. As a result of these amendments, all protests, except that of Moore Truck Lines, were withdrawn.

During the course of hearing, the application was again amended. By the third amendment, applicant requests authority to transport specified commodities, in shipments of 20,000 pounds or more, moving in intrastate, interstate, and foreign commerce, as follows:

I

Animal Feeds and component parts thereof;
Feed and Feed Ingredients and component parts thereof;
Machinery and chemicals;
Paper and paper products;
Plumbing supplies;
Lumber and building supplies;
Steel;
Pipes;
Case and canned goods;
Fertilizers; and
Cargo Containers and commodities having an immediate,
prior, or subsequent movement in cargo containers

between all points and places on or within ten miles of the points on the following routes:

- (1) U.S. Highway 99 between Woodland and Merced, inclusive;
- (2) U.S. Highways 50, 580, and 5 between San Francisco and Stockton, inclusive;
- (3) U.S. Highway 5 and its intersection with Interstate Highway 205 and its intersection with State Highway 140, inclusive; and
- (4) State Highway 140 and between its intersection with State Highway 99 and Interstate Highway 5, inclusive.

II

Transportation of the following commodities from the points named to Oakland, Richmond, and San Francisco:

Chowchilla

Cottonseed meal
Cottonseed crumbles
Cottonseed pellets
Cottonseed oil

Firebaugh and Dos Palos

Alfalfa pellets
Alfalfa meal

Dixon

Alfalfa pellets
Tallow
Yellow grease
Meat scraps
Bone meal

Upon this amendment to its application, Moore Truck Lines withdrew its protest and the matter was taken under submission.

Applicant, whose predecessors, John S. Lopes, Jr., and John S. Lopes, Sr., have conducted operations as a permitted carrier since 1936, proposes a daily on-call service. Its main place of business is in Modesto where it maintains a terminal. Applicant owns and operates 37 units of equipment and as of November 30, 1974, indicated a net worth in the amount of \$131,495. The proposed rates would be comparable to those set forth in Minimum Rate Tariff 2 and other applicable minimum rate tariffs as established by the Commission.

In support of its application, as amended, applicant states that its gross revenues and that of its predecessors' have substantially increased over the past five years; that its fleet of equipment has increased from a few units to its present size of 37 units in response to the ever-growing and expanding shipping needs of its customers; and that the amended certificated authority requested will enable applicant to meet its shipping needs of its customers and still comply with the legal requirement of its operating authority.

After consideration the Commission finds that:

1. Applicant is presently providing service as a permitted carrier within the proposed certificated area.
2. Applicant's permitted operations within the proposed area have naturally grown and developed over the years because of an ever-increasing demand for service by applicant's customers.
3. Applicant possesses the necessary equipment and financial ability to provide the proposed service.
4. Notice of the filing of this application appeared in the Federal Register of October 17, 1974.
5. 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 engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by the order herein.
6. With reasonable certainty the project involved in this proceeding will not have a significant effect upon the environment.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order. The routes named in the authority granted reflect the names of redesignated highways and roads and do not in any way exceed the geographical scope of the proposed operation as published in the Federal Register. A public hearing is not necessary.

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 Lopes Trucking Service, Inc., a California 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 of this decision.

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 administered by 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 29th
day of APRIL, 1975.

I dissent:

William L. Sturgeon, Commissioner

Vernon L. Sturgeon
President

William L. Sturgeon

Leonard Ross

Robert K. Sturgeon
Commissioners

Lopes Trucking 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 commodities named in shipments weighing 20,000 pounds or more, as follows:

I. A. Animal feeds and components thereof

Feed and feed ingredients and components thereof

Machinery

Chemicals

Paper and paper products

Plumbing supplies

Lumber and building supplies

Steel

Pipes

Case and canned goods

Fertilizers

Cargo containers and commodities having an immediate, prior or subsequent movement in cargo containers.

B. Between all points and places on or within ten miles of the points on the following routes:

1. State Highway 99 between Woodland and Merced, inclusive;

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2. Interstate Highways 580, 205 and 5 between San Francisco and Stockton, inclusive;
3. Interstate Highway 5 between its intersection with Interstate Highway 205 and its intersection with State Highway 140, inclusive; and
4. State Highway 140 between its intersection with State Highway 99 and its intersection with Interstate Highway 5, inclusive.

II. From named points to Alameda, Oakland, Richmond and San Francisco:

Chowchilla -

Cottonseed meal
Cottonseed crumbles
Cottonseed pellets
Cottonseed oil

Firebaugh and Dos Palos -

Alfalfa pellets
Alfalfa meal

Dixon -

Alfalfa pellets
Tallow
Yellow grease
Meat scraps
Bone meal

- III. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

(END OF APPENDIX A)

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