

ltc

Decision No. 84486

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Leyba Trucking Service, Inc., a
California corporation, doing business
as ENTERPRISE TRUCKING SERVICE for a
Certificate of Public Convenience
and Necessity authorizing the
transportation of General Commodities
between points within the San Francisco
Territory.

Application No. 55091
(Filed August 2, 1974;
amended February 27, 1975)

O P I N I O N

By its application, as amended, Leyba Trucking Service, Inc., a California corporation, requests a certificate of public convenience and necessity authorizing operations as a highway common carrier for the transportation of general commodities, with certain exceptions, in an area from San Rafael and Vallejo on the north, Antioch and Livermore on the east, and San Jose on the south, subject to the restriction that no service shall be provided (1) to, from, or between points in Solano County, or (2) to, from, or between points east of Concord, except traffic handled for a regulated freight forwarder and having a prior or subsequent movement by motor, rail, or water carrier. Applicant also seeks corresponding interstate authority. Copies of the application were served upon 101 existing certificated carriers with which the proposed service might compete and upon the California Trucking Association. An appropriate notice was also published in the Federal Register on August 28, 1974. The only protest was filed by Delta Lines, which was subsequently withdrawn upon the application being amended.

Applicant and its predecessor, Frank Leyba, have been conducting operations as a permitted carrier within the counties of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Solano since 1955. Applicant's main place of business is in Oakland. It owns and operates 19 units of equipment and as of December 31, 1973 indicated a net worth in the amount of \$75,389.

Applicant proposes a daily on-call service Mondays through Fridays. The proposed rates would be comparable to those set forth in Minimum Rate Tariff 2.

It is alleged that most of applicant's customers have used its service for more than three years; that many of these customers have experienced substantial business growths and have made ever-increasing demands upon applicant for service; and that applicant is now concerned that the extent of its present operations might exceed the scope of its permitted 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 service area have materially 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 this application appeared in the Federal Register on August 28, 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

A. 55091 ltc

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 on the environment.

The Commission concludes that the application, as amended, should be granted as set forth in the ensuing order. The territorial descriptions or routes of 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 Leyba 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 3rd day of JUNE, 1975.

I dissent:

~~Edward~~, Commissioner

Verma L. Stinson
President
William J. Quinn

Leonard H. Ross
Robert H. Stinson
Commissioners

LEYBA TRUCKING SERVICE, INC.
(a California corporation)
doing business as
ENTERPRISE TRUCKING SERVICE

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

1. U. S. Highway 101 between San Rafael and San Jose, inclusive;
2. Interstate Highway 280 between San Francisco and San Jose, inclusive;
3. State Highway 17 between San Rafael and San Jose, inclusive;
4. Interstate Highway 80 between Vallejo and San Francisco, inclusive;
5. Interstate Highway 680 between Vallejo and San Jose, inclusive;
6. State Highway 4 and San Pablo Avenue between Pinole and Antioch, inclusive;
7. State Highway 24 between Oakland and Concord, inclusive;
8. Interstate Highways 80 and 580 between San Francisco and Livermore, inclusive; and
9. State Highway 84 between Livermore and Atherton, inclusive.

RESTRICTION: No service shall be provided (1) to, from or between points east of Concord, except traffic handled for a regulated

Issued by California Public Utilities Commission.

Decision No. 84486, Application No. 55091.

freight forwarder and having a prior or subsequent movement by motor, rail or water carrier; or (2) to, from or between points in Solano County.

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.

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
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. 84486, Application No. 55091.

5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Cement.
8. Logs.
9. Articles of 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. Fresh fruits and vegetables.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 84486, Application No. 55091.