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ORIGINAL

Decision No. 84776

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DATA AIR DISTRIBUTION SYSTEM CO., INC.,
a corporation, for Certificate of
Public Convenience and Necessity as a
Freight forwarder of general commodities
between points in the State of Cali-
fornia.

Application No. 55705
(Filed May 23, 1975;
amended July 8, 1975)

O P I N I O N

Data Air Distribution System Co., Inc., a California corporation, requests a certificate of public convenience and necessity pursuant to Section 1010 of the Public Utilities Code to conduct business as a freight forwarder of general commodities, utilizing the lines of air common carriers, highway common carriers, and passenger stage corporations between points located within a 25-mile radius of various cities named in Exhibit 3 attached to the application.

Applicant is presently engaged in business as a domestic air freight forwarder under Civil Aeronautics Board Operating Authority No. 344. It maintains facilities at various locations throughout the United States. In California applicant's offices are located at Los Angeles and San Jose. It also has agency agreements with several carriers serving both northern and southern California incidental to applicant's interstate authority. The services of additional agents will be acquired at points proposed to be served under the sought certificated authority.

Applicant proposes to forward general commodities except commercial documents or paper, bank records, cash letters, book-keeping data, audit media, information recorded on punched cards, tape or film, and those commodities prohibited by law from transportation by aircraft.^{1/} Applicant proposes to assess tariff rates, rules, and charges which are generally competitive with those published by Emery Air Freight Corporation in Air Freight Tariff No. 2, CPUC No. 2.^{2/}

It is alleged that the forwarding of intrastate air freight cargo is required in order for applicant to adequately serve its regular interstate customers who also ship locally within California. The sought authority will assertedly enable applicant to serve the shipping public more efficiently, provide a complete specialized door-to-door service, detailed relaying of information, and permit simplified accounting procedures for shippers.

Applicant's balance sheet dated March 31, 1975 shows total assets of \$401,234 and current liabilities of \$234,085. Its statement of income for the year ending December 31, 1974 shows a net income of \$75,195 after taxes. Applicant's statement of earnings for the three months ending March 31, 1975 indicates net income of \$20,116 after taxes.

The Commission's Transportation Division staff has reviewed the application and recommended that, in the absence of protest, the sought authority be granted by ex parte order. The certificate

1/ The embargoed commodities are named in Restricted Articles Tariff No. 2, C.A.B. No. 28 of Miller Traffic Services, Inc., Agent.

2/ This tariff has been superseded by Emery Air Freight Corporation, California Intrastate Airfreight Tariff No. 1, CPUC No. 6.

of service indicates that a copy of Application No. 55705, as amended, was mailed to various interested air freight forwarders. The application was also listed on the Commission's Daily Calendar of May 29, 1975. On July 2, 1975 Loomis Courier Service, Inc. withdrew its protest and request for public hearing of Application No. 55705. The sought ex parte authority, as amended, is now unopposed.

Findings

1. Applicant has the experience and financial ability required to institute and maintain the proposed service.
2. Public convenience and necessity require that the proposed service be authorized.
3. A public hearing is not necessary.
4. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that Application No. 55705, as amended, should be granted.

Data Air Distribution System Co., Inc. 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 Data Air Distribution System Co., Inc. authorizing it 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.

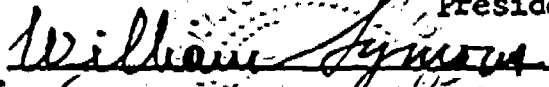
- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the 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.

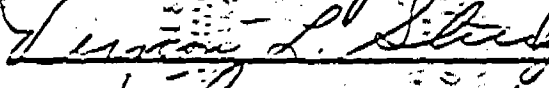
- (e) Applicant shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.
- (f) Applicant shall comply with the requirements of the Commission's General Order 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 required by the General Order.
- (g) Applicant shall comply with the requirements of the Commission's General Order No. 100-Series and the safety rules administered by the California Highway Patrol 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 12th day of AUGUST, 1975.



President







Commissioners

Appendix A DATA AIR DISTRIBUTION SYSTEM CO., INC. Original Page 1

Data Air Distribution System Co., Inc., 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, between the following points in the State of California served by common carriers, subject to the conditions stated:

Arcata	Los Angeles	Salinas
Bakersfield	Marysville	San Bernardino
Blyth	Merced	San Diego
Burbank	Modesto	San Francisco
Chico	Monterey	San Jose
Crescent City	Oakland	San Luis Obispo
El Centro	Ontario	Santa Ana
Eureka	Oxnard	Santa Barbara
Fresno	Palmdale	Santa Maria
Indio	Palm Springs	Santa Rosa
Laguna Beach	Paso Robles	Stockton
Lake Tahoe	Redding	Ventura
Lancaster	Riverside	Visalia
Long Beach	Sacramento	Yuba City

Conditions

1. The underlying carrier used by Data Air Distribution System Co., Inc. between airports shall be an air common carrier, except that 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 the transportation.

Issued by California Public Utilities Commission.

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2. No collection or distribution service shall be provided by Data Air Distribution System Co., Inc. 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.
3. Data Air Distribution System Co., Inc. shall establish door-to-door rates for service between airports, including points within 25 miles thereof as defined in paragraph 2 herein. On traffic moving to or from points beyond said 25-mile radius, Data Air Distribution System Co., Inc. 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.
4. Data Air Distribution System Co., Inc. shall not forward any shipments containing:
 - (a) Commodities prohibited by law from transportation by aircraft.
 - (b) Commercial documents or paper, bank records, cash letters, bookkeeping data, audit media, and information recorded on punched cards, tape or film.

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