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Decision No. 85886

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
TRANS-AERO SYSTEMS CORPORATION for
a certificate of public convenience
and necessity authorizing transpor-
tation of general commodities as a
highway common carrier between
points within the San Francisco
Territory and areas adjacent thereto.

Application No. 56284
(Filed February 20, 1976)

O P I N I O N

By this application, Trans-Aero Systems Corporation, a highway permit carrier, seeks a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code, authorizing operations as a highway common carrier for the transportation of general commodities, with certain exceptions, between points and places in the San Francisco Territory and areas adjacent thereto. The proposed highway common carrier service will be daily, Monday through Friday. Time in transit for the service will be both same day and overnight, depending upon the time of day requests for service are received. The rates to be assessed will be on the same scale as those published by the Western Motor Tariff Bureau, Inc., which are applicable to the service sought herein. The service is proposed to be performed in both intrastate and interstate commerce.

Applicant commenced motor carrier operations in 1973 with a single truck and a limited volume of traffic. The original customers of applicant are still using the service, and the volumes of their shipments and frequency thereof have consistently grown. The territory being served is primarily the San Francisco Territory and the areas adjacent thereto, with sporadic or occasional movements to points beyond. As a result of the increased traffic which has been tendered for transportation, applicant was required to obtain additional units of equipment and, with the acquisition of these units, the demand for service has continued to increase. The expanded volume and frequency of operation have caused applicant to be concerned as to whether the permitted authority continues to cover the frequency of operations that is presently being provided. This application was filed to obtain a more appropriate authority under which to continue service and meet the requirements of customers and enable applicant to experience an orderly growth in the future.

Attached to the application are a balance sheet as of December 31, 1975 and a profit and loss statement for the period from January 1, 1975 through December 31, 1975. The application also included a list of equipment that would be used for the proposed operation.

The application was noticed in the Commission's Daily Calendar of February 23, 1976. A notice of filing for publication in the Federal Register pursuant to Section 206(a)(6) of the Interstate Commerce Act was forwarded to the Interstate Commerce Commission on February 17, 1976. The notice was published in the Federal Register of March 10, 1976.

A formal protest was filed on April 26, 1976, by Peninsula Air Delivery (PAD), a highway common carrier. PAD recited several alleged inaccuracies in the application and questioned applicant's ability to operate as a highway common carrier. According to the

protest, PAD is capable of providing additional service and that granting of this application will produce an economic burden on PAD by diluting the revenues of the over populated highway common carriers operating in the San Francisco Territory.

Applicant filed a formal reply to the protest on May 4, 1976. In its reply applicant answered each allegation in the protest.

No other protest or request for public hearing has been received. A review of the protest filed by PAD and applicant's reply fails to disclose any apparent lack of factual information requiring public hearing. Both parties have adequately presented their arguments reflecting their respective positions. We conclude that a public hearing is not necessary.

Findings

1. Applicant has the financial ability to render the proposed service.

2. Applicant has the equipment and facilities necessary to perform the proposed service.

3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application 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 this decision.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. ✓

The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description of the authority granted reflects the names of redesignated highways and roads and does not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

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 Trans-Aero Systems Corporation, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points in the San Francisco Territory and all points within ten miles of any point therein, as 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 April 30 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 2nd day of JUNE, 1976.

I dissent:

Stedman, Commissioner

William Symons, Jr. President
James L. Sturgeon
Alton
Robert Batminal Commissioners

Trans-Aero Systems Corporation, a California corporation, 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 as follows:

Between all points and places in San Francisco Territory as described in Note A hereof, and all points within ten miles of any point therein.

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

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

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liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
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. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

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.

NOTE A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero

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Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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