

Decision No. ~~86458~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)  
CODE THREE AVIATION, INC., a  
corporation, for certificates of  
public convenience and necessity  
as an air freight forwarder of  
general commodities between  
points in the State of California.

Application No. 56607  
(Filed July 9, 1976;  
amended August 16, 1976)

O P I N I O N

Code Three Aviation, Inc., a California corporation, seeks a certificate of public convenience and necessity authorizing it to operate as a freight forwarder utilizing the lines of air common carriers, highway common carriers, and passenger stage corporations in the transportation of property originating at points served by airports in Burbank, Los Angeles, Oakland, Sacramento, San Diego, San Francisco, Long Beach, Santa Barbara, Ontario, or Anaheim (Orange County Airport), and terminating at various points in California.

Applicant operates as a radial highway common carrier. The application states that applicant is a new corporation which has filed applications with the federal Civil Aeronautics Board for interstate and international authority to operate as an air freight forwarder. Applicant intends to operate the authority sought herein and its proposed interstate and foreign air freight forwarder operations to provide an integrated service to the shipping public. The application states that applicant proposes to serve the shipping public by providing specialized door-to-door service, expedited ground handling of air freight shipments, and simplified accounting for shippers.

The rates proposed to be assessed from Los Angeles are set forth in the amendment to the application. Applicant requests that it be authorized to depart from the long- and short-haul provisions of Section 461.5 of the Public Utilities Code in order to publish the rates proposed.

Financial statements appended to the application show that applicant has the financial ability to inaugurate and operate the proposed service.

The amendment to the application contains a certificate of service showing that the application was served on interested parties. In addition, notice of the filing of the application and amendment appeared on the Commission's Daily Calendar. There are no protests or requests for public hearing.

In the circumstances, the Commission finds that:

1. Applicant has the experience and financial ability required to institute and maintain the proposed service.
2. Public convenience and necessity require the operation by applicant of the proposed service.
3. Departure from the long- and short-haul provisions in connection with the establishment of rates by applicant between its break-bulk terminal points and in connection with its door-to-door service is justified.
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.
5. A public hearing is not necessary.

The Commission concludes that the application, as amended, should be granted.

Code Three Aviation, 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 Code Three Aviation, Inc., a corporation, 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.
- (h) Applicant shall comply with the requirements of the Commission's General Order No. 139-Series governing the handling of loss and damage claims.

3. In the establishment of rates for transportation service as a freight forwarder, Code Three Aviation, Inc. is authorized to establish and maintain lesser rates for a longer distance than for a shorter distance on the same line or route.

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

Dated at San Francisco, California, this 5<sup>th</sup>  
day of OCTOBER, 1976.

 President  
William Lyons  
Vernon L. Stinson  
Mon  
Robert Bateman Commissioners

Code Three Aviation, 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, subject to the following conditions:

1. Applicant 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  
Oakland Airport  
Sacramento Metropolitan Airport  
San Diego International Airport  
San Francisco International Airport  
Long Beach Airport  
Santa Barbara Airport  
Ontario Airport  
Orange County Airport

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

Arcata	Los Angeles	Salinas
Bakersfield	Marysville	San Bernardino
Blythe	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

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2. The underlying carrier used by Code Three Aviation, 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.
3. No collection or distribution service shall be provided by Code Three Aviation, Inc. to or from any point more than 100 statute miles distant from any airport served by it unless said service beyond said 100 statute miles is performed by a highway common carrier. As used herein "point" means any point within 100 statute miles of the city limits of any city in which is located an airport, or 100 statute miles of any airport located in an unincorporated area. ✓
4. Code Three Aviation, Inc. shall establish door-to-door rates for service between airports, including points within 100 statute miles thereof as defined in paragraph 3 herein. On traffic moving to or from points beyond said 100-mile radius Code Three Aviation, 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. ✓
5. Code Three Aviation, Inc. shall not forward any shipments containing:
  - (a) Commodities prohibited by law from transportation by aircraft.
  - (b) Checks or money orders in the process of clearance and bank accounting data.

(END OF APPENDIX A)

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