

RR/KLH/AV/WPSC

Decision 84 03 027

MAR 7 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 RYDER/P-I-E NATIONWIDE, INC., a)
 Florida corporation, for a general)
 order of exemption from Sections)
 816-830 of the Public Utilities)
 Code, pursuant to Section 829, and)
 from Sections 851-855 of the Public)
 Utilities Code, pursuant to)
 Section 853.)

Application 84-01-22
 (Filed January 9, 1984)

O P I N I O N

Ryder/P-I-E Nationwide, Inc. (Ryder/P-I-E) requests an order, under Public Utilities (PU) Code Sections 816-830 and 851-855, for an exemption from compliance with these sections of the PU Code for the issuance of its stocks, bonds, notes, and other evidences of indebtedness, as well as for the encumbrances or transfer of interests in its properties which would otherwise be subject to Commission approval. This requested order would not apply to the transfer or conveyance of any of Ryder/P-I-E California intrastate operating authorities. Ryder/P-I-E would continue to be subject to Commission rate regulation and reporting requirements, as well as insurance and safety regulation.

Summary of Decision

This decision grants to Ryder/P-I-E an exemption from compliance with PU Code Sections 816-830 and 851-855. The exemption will remain in effect as long as the company's annual intrastate revenues are less than 5% of its gross annual revenues in the calendar year preceding the year in which any security transaction is to be consummated.

Notice of the filing of the application appeared on the Commission's Daily Calendar of January 13, 1984. No protests have been received.

Ryder/P-I-E, a Florida corporation, maintains its principal place of business in Jacksonville, Florida. Ryder/P-I-E holds authority to operate as a highway common carrier within California under a Certificate of Public Convenience and Necessity issued under PU Code Section 1063 and various authorities under File T-132,298. Ryder/P-I-E also operates as a transcontinental motor carrier operating in interstate commerce under authority granted by the Interstate Commerce Commission (ICC). Ryder/P-I-E operates in the 48 states of the United States and the District of Columbia. It also serves the southern portion of Ontario and Vancouver, Canada and as a non-vessel carrier in Puerto Rico and the Virgin Islands.

Ryder/P-I-E is, through a series of holding companies, ultimately controlled by IU International Corporation (IU). IU's various subsidiaries and affiliates provide transportation, environmental and distribution services, and engage in agri-business and other activities throughout the United States.

As of July 1983, Ryder/P-I-E's revenue fleet consisted of 4,326 line tractors, 10,196 line trailers, and 7,472 pickup and delivery trucks, tractors, and trailers, substantially all of which are owned directly by the applicant. Ryder/P-I-E also maintains over 1,700 service vehicles. Approximately 650, or less than 3% of Ryder/P-I-E's revenue and service vehicles, are licensed in California.

Ryder/P-I-E employs approximately 16,300 persons in its transportation operations. Of this total, less than 8% are employed in California.

Ryder/P-I-E maintains over 280 terminals located throughout the United States and Canada for the movement of general commodities. A division of Ryder/P-I-E maintains an additional 58 terminals.

During the first six months of 1983, the combined gross operating revenues for P-I-E and Ryder, applicant's predecessors, exceeded \$497,273,999. Of this total, only \$2,044,600, or .4%, was

earned from intrastate operations in California. Similarly, during the years ended December 31, 1982 and December 31, 1981, Ryder and P-I-E had consolidated operating revenues in excess of \$1,022,287,000 and \$1,083,804,000, respectively. Of these 1982 and 1981 total revenues, only \$3,859,403 and \$3,064,317, or .4% and .3% respectively, were derived from their California intrastate operations.

Applicant submits that its operations and the operations of its predecessors Ryder and P-I-E have been, and are, related primarily to interstate transportation regulated by the ICC. By comparison, operations under its California intrastate certificate authority have been de minimis and have been performed in connection with, or related to, its interstate operations.

Request for Exemption

Based upon the above set of facts, Ryder/P-I-E requests that this Commission issue an order which exempts its issuance of stocks, bonds, notes, and other evidences of indebtedness, as well as the encumbrance or transfer of interests in its properties from prior Commission approval, as more fully described in the application. Under the relief requested, Ryder/P-I-E would continue to be subject to this Commission's reporting, insurance, safety, and rate requirements. Any transfer, or encumbrance, of its operating authorities issued by this Commission would continue to be subject to this Commission's approval.

Ryder/P-I-E alleges that the application of PU Code Sections 816-830 and 851-855 to each of its finance, security, and property transactions is not necessary or in the public interest. This is based on the historically de minimis nature of the transportation performed by Ryder/P-I-E in intrastate commerce compared to its operations in interstate commerce and the lack of necessity for overlapping multiple regulatory approvals of these transactions.

PU Code Section 816 generally prohibits the issuance of stocks, bonds, notes, and other evidences of indebtedness, without Commission approval. Section 851 prohibits the transfer or encumbrance of "the whole or any part of (a public utility's)... property necessary or useful in the performance of its duties to the public ... without first having secured from this Commission an order authorizing it to do so."

In relevant part, Sections 829 and 853 both provide:

"The commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from the provisions of [Sections 816-830 or Sections 851-855] if it finds that the application thereof to such public utility or class of public utility is not necessary in the public interest."

This Commission has exercised its authority to grant exemptions under PU Code Sections 829 and 853 on numerous prior instances. It has done so primarily on the basis that the California operations of various public utilities, including motor carriers, are de minimis when compared to their interstate operations.

In the past, the Commission has found that the public interest is not served by applying the requirements of either PU Code Sections 816-830 or 851-855 to motor carriers whose California intrastate operations are de minimis, when compared to their interstate operations.

This Commission has made precisely the same finding with respect to the applicant, Ryder/P-I-E, in Decision (D.) 83-11-077 dated November 22, 1983 in Application (A.) 83-10-32. In that decision, the Commission found that Ryder/P-I-E's intrastate operations in California have been de minimis in comparison to its interstate operations. On that basis, it granted an exemption with respect to debt and a security interest in terminal property issued in conjunction with the sale of Industrial Development Revenue Bonds (Bonds) and the pledge of Ryder/P-I-E's terminal property as security for the Bonds.

PU Code Sections 829 and 853 require that the Commission review each case to determine its applicability to the facts set forth in a particular application. In this case, Ryder/P-I-E's operations, subject to the jurisdiction of this Commission, are minimal when compared to its overall interstate operations. As noted in its application, Ryder/P-I-E does not propose that it be relieved of all obligations and reporting requirements of this Commission. Ryder/P-I-E agrees that it must, of course, continue to file the required periodic reports; maintain appropriate amounts of insurance; comply with safety regulations; and comply with all rate and tariff requirements of the PU Code and the rules and regulations of the Commission. It also agrees that the exemption requested should not extend to the transfer or encumbrance of its operating authorities granted by this Commission. An exemption is requested only with respect to the requirement that Ryder/P-I-E seek this Commission's approval for each separate transaction involving the issuance of securities, or debt, and the encumbrance, or transfer, of properties under the provisions of PU Code Sections 816-830 and 851-855.

By eliminating the substantial cost and delay associated with submitting each and every transaction, otherwise subject to the provisions of PU Code Sections 816-830 and 851-855 to this Commission for approval, applicant's operating efficiency will be

enhanced and its service to the public improved. In addition, the exemption will substantially relieve the burden upon the Commission in having to approve each and every transaction and will, in this matter, reduce the cost to the public.

The Commission's Revenue Requirements and Transportation Divisions have reviewed Ryder/P-I-E's application and have no objection to granting the exemption requested; however, the Divisions recommend that this exemption remain in effect as long as the company's annual intrastate operating revenue are less than 5% of its gross annual revenues in the calendar year preceding the year in which any security transaction is to be consummated.

The Commission accepts the recommendation of the Revenue Requirements Division and the Transportation Division.

Findings of Fact

1. Ryder/P-I-E, a Florida corporation, operates as a highway common carrier under the jurisdiction of this Commission.
2. Ryder/P-I-E requests that it be exempted from the requirements of PU Code Sections 816-830 and 851-855 with respect to its issuance of stocks, bonds, notes, and other evidences of indebtedness, as well as the encumbrance, or transfer, of interests in its properties as described in its application.

3. Historically, a very small percentage of the systemwide revenue of Ryder/P-I-E and its predecessors was related to California intrastate operations.

4. Of Ryder/P-I-E's vast number of properties and extensive fleet of revenue and service vehicles, a very small percentage are located and/or licensed in California, or dedicated exclusively to California intrastate transportation.

5. Ryder/P-I-E's California intrastate operations have historically been de minimis by comparison to its overall systemwide transportation service.

6. The application of PU Code Sections 816-830 and 851-855 is not necessary in the public interest.

7. There is no known opposition and no reason to delay granting the authority requested.

Conclusions of Law

1. It is proper to exempt Ryder/P-I-E's issuance of stocks, bonds, notes, and other evidences of indebtedness, as well as the encumbrance or transfer of interests in its properties, other than operating authority, from the approval requirements of PU Code Sections 816-830 and 851-855. The exemption will remain in effect as long as the company's intrastate operating revenues are less than 5% of its gross annual revenues in any calendar year preceding the year in which any security transaction is to be consummated.

2. A public hearing is not necessary.
3. There is no reason to delay granting the authority requested.
4. The application should be granted to the extent set forth in the order which follows.

The following order should be effective on the date of signature to permit Ryder/P-I-E to proceed with its security transactions expeditiously.

O R D E R

IT IS ORDERD that Ryder/P-I-E Nationwide, Inc. (Ryder/P-I-E) is granted a limited exemption under Public Utilities Code Sections 816-830 and 851-855, from the requirements that it obtain this Commission's approval for its issuance of stocks, bonds, notes, and other evidences of indebtedness, as well as the encumbrance, or transfer, of interests in its properties, other than operating authority, as described in the application. This exemption is granted under PU Code Sections 829 and 853 and it shall remain in effect as long as Ryder/P-I-E's annual intrastate operating revenues are less than 5% of its gross annual revenues in any calendar year preceeding the year in which a security transaction is to be consummated. Ryder/P-I-E shall continue to be

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subject and adhere to this Commission's reporting, insurance, and safety requirements, and shall, as to its intrastate transportation be subject to this Commission's rate regulation.

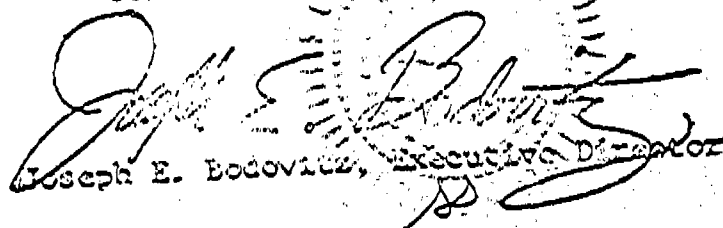
This order is effective today.

Dated MAR 7 1984 at San Francisco, California.

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

Commissioner Leonard M. Grimes, Jr.,
being necessarily absent, did not
participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director