

Decision 82 05 065 MAY 17 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of)
 Gonzalez Freight Lines, Inc., a)
 California Corporation, for the)
 extension of Certificate of Public)
 Convenience and Necessity to operate)
 as a Highway Common Carrier for the)
 transportation of property in)
 intrastate commerce, under the)
 provisions of Section 1063 of the)
 California Public Utilities Code,)
 and an in-lieu certificate)
 therefore.)

Application 82-02-06
 (Filed February 3, 1982;
 amended March 9, 1982)

O P I N I O N

Applicant Gonzalez Freight Lines, Inc., a California corporation, requests a certificate of public convenience and necessity to operate as a highway common carrier of general commodities, with the usual exceptions, between all points in the State of California. The application and its amendment were noticed in the Commission's Daily Calendars of February 8 and March 11, 1982, respectively. A copy of the application and its amendment were served on the California Trucking Association. Applicant requests a waiver of Rule 21(f) of the Commission's Rules of Practice and Procedure. No protests to the application have been received.

Applicant presently operates as a highway common carrier transporting general commodities, with the usual exclusions, between San Francisco Territory and Sacramento and points intermediate. This certificate was issued under Decision (D.) 86071 dated July 1, 1976 in Application 56357. It is the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC 99298 (Sub 1). Applicant also conducts operations as a highway contract carrier and agricultural carrier under File T-115,871. It operates 6 tractors, 11 trailers, 6 pickup and delivery trucks, and an assortment of other equipment. Its general office and terminal are in San Francisco. For the 11 months ended November 30, 1981 it had \$567,000 in operating revenues and a net loss of \$8,000. As of November 30, 1981 it had a net worth of \$104,000.

Applicant's proposed service will operate daily, Monday through Friday. Most deliveries will be overnight. Applicant is presently a party to Western Motor Tariff Bureau Inc., Agent, for tariff publications as are necessary within the territory embraced by its current certificate, and proposes to participate in the same tariffs for rates and charges in the extended area it proposes to serve.

In support of its application applicant states that it has had many years of experience in the transportation of freight, serving the public since 1946, when Gonzalez Drayage was established. It became a common carrier in 1955, when the name was changed to Gonzalez Freight Lines. Prior to the introduction of Senate Bill 860, applicant possessed a radial highway common carrier permit, as well as a highway contract carrier permit and its common carrier certificate. The applicant disposed of its radial common carrier permit. ✓

Accordingly, when Senate Bill 860 was enacted into law as Section 1063.5 of the California Public Utilities Code, applicant was unable to qualify for the "grandfather" provisions of that section.

Applicant now finds that it can no longer compete with other carriers for business, and is now in the precarious position of finding it extremely difficult to be in compliance with the Commission's regulations. This is because the Commission, in D.89575, required contract carriers to file contracts with the Commission, and specifically prohibited individual one-time shipments (Par. 1, Appendix G, D.89575). Applicant's shippers find it hard to comprehend that most other carriers can accept shipments to any point in California, and applicant cannot, and they are not willing to enter into a binding bilateral contract for the occasional transportation of less than

truckload shipments. Inasmuch as the bulk of applicant's operations is in the transportation of less than truckload shipments, applicant is faced with the prospect of losing its major customers in order to remain in conformity with the Commission's orders. The nature of applicant's service is that of a common carrier, and does not conform to the restrictions and definitions of contract carriage as set forth in Appendix G, supra.

Applicant's service to the public is evidenced by its growth and long period of service. Applicant asserts that the public is entitled to the continuation of applicant's services by allowing applicant to serve the entire State the same as those carriers authorized under Section 1063.5.

Applicant states that it would be impossible to obtain the names and addresses of all prospective competing carriers on which to serve its application because there are so many since the implementation of Senate Bill 860.

Findings of Fact

1. Applicant requests a certificate to operate as a highway common carrier of general commodities in intrastate commerce between all points within the State of California.
2. Applicant currently operates as a highway common carrier between San Francisco territory and Sacramento and as an agricultural carrier and contract carrier.
3. Applicant disposed of its radial highway common carrier permit shortly before the enactment of Senate Bill 860. ✓
4. Having disposed of its radial highway common carrier permit, applicant was not in a position to take advantage of the privilege to convert it to a statewide highway common carrier certificate as the bill allowed.

5. Applicant finds it can no longer compete with other carriers for business, and is now in the precarious position of finding it extremely difficult to be in compliance with the Commission's regulations pertaining to highway contract carriers.

6. The nature of applicant's overall service is that of a common carrier and does not conform to the restrictions applicable to contract carriers.

7. Applicant has the equipment necessary to conduct the proposed operations.

8. Applicant is financially able to initiate and conduct the proposed operation.

9. Public convenience and necessity require the granting of the certificate.

10. A public hearing is not necessary.

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

Conclusions of Law

1. The application should be granted, subject to the limitations pertaining to duplicative authority outlined below.

2. Rule 21(f) of the Commission's Rules of Practice and Procedure should be waived in respect to the service of this application.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

We have held on numerous occasions that to the extent that one certificated authority duplicates in whole or in part any other certificated authority held by a carrier, such authorities may not be separated to allow the disposal of one or more duplicative rights and the retention of another to provide the same service. Accordingly, we will exclude from the certificate granted by the order which follows authority to provide any service authorized in the highway common carrier certificate granted to the applicant by D.86071.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Gonzalez Freight Lines, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code Section 213, within the area listed in Appendix A.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs within 120 days after this order is effective.
- c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 80, 100, 104, and 147, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariff provision required by that General Order.

A.82-02-06 ALJ/jn

3. Rule 21(f) of the Commission's Rules of Practice and Procedure is waived in respect to the service of this application. This order becomes effective 30 days from today. Dated MAY 17 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

Gonzalez Freight Lines, 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 Public Utilities Code Section 213 for the transportation of general commodities as follows:

Within and between all points and places in all counties of the State of California, subject to the following restriction:

RESTRICTION: No service shall be performed under this authority which is authorized to be performed under the provisions of Decision 86071 dated July 1, 1976 in Application 56357.

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.

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6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
13. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.

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14. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

(END OF APPENDIX A)

Applicant's proposed service will operate daily, Monday through Friday. Most deliveries will be overnight. Applicant is presently a party to Western Motor Tariff Bureau Inc., Agent, for tariff publications as are necessary within the territory embraced by its current certificate, and proposes to participate in the same tariffs for rates and charges in the extended area it proposes to serve.

In support of its application applicant states that it has had many years of experience in the transportation of freight, serving the public since 1946, when Gonzalez Drayage was established. It became a common carrier in 1955, when the name was changed to Gonzalez Freight Lines. Prior to the introduction of Senate Bill 860, applicant possessed a radial highway common carrier permit, as well as a highway contract carrier permit and its common carrier certificate. The applicant disposed of ^{its} ~~his~~ radial common carrier permit. Accordingly, when Senate Bill 860 was enacted into law as Section 1063.5 of the California Public Utilities Code, applicant was unable to qualify for the "grandfather" provisions of that section.

Applicant now finds that it can no longer compete with other carriers for business, and is now in the precarious position of finding it extremely difficult to be in compliance with the Commission's regulations. This is because the Commission, in D. 89575, required contract carriers to file contracts with the Commission, and specifically prohibited individual one-time shipments (Par. 1, Appendix G, D.89575). Applicant's shippers find it hard to comprehend that most other carriers can accept shipments to any point in California, and applicant cannot, and they are not willing to enter into a binding bilateral contract for the occasional transportation of less than

truckload shipments. Inasmuch as the bulk of applicant's operations is in the transportation of less than truckload shipments, applicant is faced with the prospect of losing its major customers in order to remain in conformity with the Commission's orders. The nature of applicant's service is that of a common carrier, and does not conform to the restrictions and definitions of contract carriage as set forth in Appendix G, supra.

Applicant's service to the public is evidenced by its growth and long period of service. Applicant asserts that the public is entitled to the continuation of applicant's services by allowing applicant to serve the entire State the same as those carriers authorized under Section 1063.5.

Applicant states that it would be impossible to obtain the names and addresses of all prospective competing carriers on which to serve its application because there are so many since the implementation of Senate Bill 860.

Findings of Fact

1. Applicant requests a certificate to operate as a highway common carrier of general commodities in intrastate commerce between all points within the State of California.
2. Applicant currently operates as a highway common carrier between San Francisco territory and Sacramento and as an agricultural carrier and contract carrier.
3. Applicant disposed of its radial highway common carrier permit shortly before the enactment of Senate Bill 860, ~~under the mistaken belief that it was superfluous.~~
4. Having disposed of its radial highway common carrier permit, applicant was not in a position to take advantage of the privilege to convert it to a statewide highway common carrier certificate as the bill allowed.

5. Applicant finds it can no longer compete with other carriers for business, and is now in the precarious position of finding it extremely difficult to be in compliance with the Commission's regulations pertaining to highway contract carriers.

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