

Decision 83 02 019

FEB 2- 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of Silver Arrow Express, Inc., a)
California Corporation, for a)
certificate of public convenience)
and necessity to operate as a)
highway common carrier for the)
transportation of property)
pursuant to Section 1063-64 of the)
California Public Utilities Code.)

Application 82-08-29
(Filed August 16, 1982)

O P I N I O N

Applicant Silver Arrow Express, Inc., a California corporation, requests a certificate of public convenience and necessity to operate as a highway common carrier to transport general commodities, with the usual exceptions, but including authority to haul commodities requiring special refrigeration or temperature control, between all points in the State, restricted against the transportation of shipments whose origin and destination are both located (1) within the territory comprised of the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont; (2) within certain San Diego County communities; and (3) within the City and County of San Francisco.

Notice of the filing of the application appeared in the Commission's Daily Transportation Calendar of August 18, 1982. No protests to the application have been received.

Applicant is currently operating under a highway contract carrier permit and a tank truck carrier permit. It owns and operates six tractors, seven dry freight trailers, and one tank trailer. As of June 30, 1982 it had a net worth of \$56,000 and for the six months ending on that date had a gross operating revenue of \$292,000 and a net income before taxes of \$30,000. Applicant claims it will add to its fleet whenever additional equipment becomes necessary if this application is granted. It will participate in various bureau tariffs which publish local rates between points covered by the requested certificate. Its dry freight operation is presently governed by the rates in Transition Tariff 2 and governing publications.

In support of the application applicant alleges as follows:

- "1. Silver Arrow is experienced in the transportation of freight, having served the public as a highway contract carrier statewide.
- "2. Silver Arrow has received numerous requests from other shippers who would like to use its services in the transportation of general commodities, especially articles requiring Temperature Control and other foodstuffs.
- "3. Silver Arrow was not in business in 1977 when it would have had an opportunity to have applied for a Highway Common Carrier Certificate under the provisions of Senate Bill 860. Consequently, it is now forced to compete with thousands of other carriers who had the opportunity to easily obtain certificated authority.

- "4. While the transportation of foodstuffs is relatively steady as to volume, there is always a cyclical volume of activity. As a result, it is often necessary for carriers performing this type of service to be able to accept business from new customers on short notice.
- "5. Much of the carrier's operations in the transportation of foodstuffs in refrigerated and dry van equipment is necessarily two-way, particularly between the San Francisco Bay Area and the Los Angeles area. Therefore, it is necessary for carriers performing this type of service to be able to accept backhauling business from new customers on short notice.
- "6. While large companies are frequently involved as shippers in the food business it is also true that many small-scale distributors and dealers ship food articles. These smaller shippers may tender freight infrequently. Thus it is necessary that the carrier possess a Certificate that will enable it to serve these small shippers whose very small volume of business may not justify nor qualify for contract carriage.
- "7. It is possible that the requests for Silver Arrow's service could possibly exceed, both in number and in regularity of movement, the type of transportation that is considered to be permitted carriage. Applicant wishes to keep its operations in full compliance with this Commission's regulations and yet provide a total overall transportation service to its existing customers."

Findings of Fact

1. Applicant requests a highway common carrier certificate containing the authority previously described.
2. Applicant currently operates as a highway contract carrier and as a tank truck carrier.
3. Applicant owns and operates a fleet of six tractors, seven dry freight trailers, and one tank trailer.
4. As of June 30, 1982 applicant had a net worth of \$56,000 and for the six months ending on that date had a gross revenue of \$292,000 and a net income before taxes of \$30,000.
5. Numerous shippers, especially shippers of articles requiring temperature control, have from time to time requested applicant's service.
6. These requests could possibly exceed, both in number and in regularity, the type of transportation that is considered permitted carriage.
7. It is necessary for applicant to be able to accept backhaul business from new customers on short notice.
8. Many of these new customers would be shippers of small lots who ship infrequently but who might not be able to use applicant's present service because their business may not justify or qualify for contract carriage.
9. Applicant is financially fit to perform the requested service.
10. Public convenience and necessity require the granting of the requested certificate.
11. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.
12. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
13. A public hearing is not necessary.

Conclusion of Law

The application should be granted.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Silver Arrow Express, Inc. a California corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points 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, 123, and 147, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

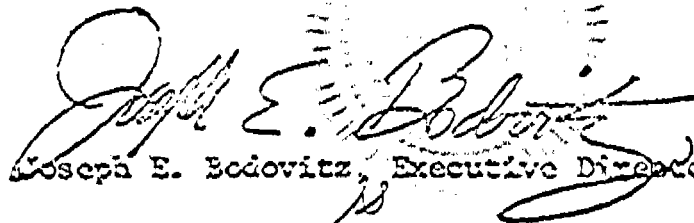
- f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariff provisions required by that General Order.

This order is effective 30 days from today.

Dated FEB 2 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director

Silver Arrow Express, 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:

Between all points in the State of California except:

- a. Shipments whose origin and destination are both located within the territory comprised of the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont.
- b. Shipments whose origin and destination are both located within the territory comprised of Metropolitan Zones 301 through 312, as described in Distance Table 8 issued by the Public Utilities Commission of the State of California.
- c. Shipments whose origin and destination are both located within the City and County of San Francisco.

Issued by California Public Utilities Commission.

Decision 83 02 019, Application 82-08-29.

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

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.
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.

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10. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
11. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
12. 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.
13. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.
14. Commodities and shipments within geographic areas exempt from rate regulation as described in "Commodities and Geographic Areas Exempt from Rate Regulation issued by the Public Utilities Commission of the State of California on June 15, 1982 (Decision 82-06-091 in OII 85).

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)