

Decision 83 11 077 NOV 22 1983

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 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. )  
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Application 83-10-32  
(Filed October 26, 1983)

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 exemption from compliance with the provisions of Sections 816-830 and 851-855 of the PU Code under Sections 829 and 853, respectively. This exemption is requested in connection with a Loan Agreement and related Deed of Trust on terminal property located in Pomona, California, to be delivered to secure tax-exempt financing provided by the sale of \$2,000,000 in bonds approved by the Industrial Development Authority of the County of Los Angeles. These Floating Rate Demand Industrial Revenue Bonds (Ryder/P-I-E Nationwide, Inc. Project), Series 1983 (Bonds) will be issued under the provisions of the California Industrial Development Financing Act (California Government Code Section 91500 et seq.)

Summary of Decision

This decision grants to Ryder/P-I-E the authority requested in its application and exempts it from compliance with PU Code Sections 816-830 and 851-855 with respect to the encumbrance of property and the issuance of evidence of indebtedness.

Notice of the filing of the application appeared on the Commission's Daily Calendar of October 24, 1983. No protests have been received.

Ryder/P-I-E, a Florida corporation, maintains its principal place of business in Jacksonville, Florida. It 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 is, through a series of holding companies, ultimately controlled by IU International Corporation, a publicly-held corporation, not subject to this Commission's jurisdiction. ✓

During 1981, Ryder/P-I-E generated total operating revenues of approximately \$996,832,000, of which only \$3,064,000 or .3% were earned in California. Of its total 1982 revenues of

approximately \$966,354,000, only \$3,859,400 or .4% were earned in California. Similarly, during the first six months of 1983, only .4% of Ryder/P-I-E's revenues were earned in California.

The operations of Ryder/P-I-E and its predecessors, Ryder Truck Lines, Inc. and Pacific Intermountain Express Co., have been, and are, related primarily to interstate transportation authorized by the ICC. Historically, operations under its California intrastate certificate authority have been de minimis by comparison. In fact, most of the California intrastate activities which have been conducted have been performed in connection with, or related to, its interstate operations.

Based upon the above set of facts, Ryder/P-I-E has requested this Commission to exempt, under PU Code Sections 829 and 853, the encumbrance of its assets and the issuance of evidence of indebtedness as more fully described in its application.

Ryder/P-I-E has alleged that the application of PU Code Sections 816-830 and 851-855 is not necessary, or in the public interest, because of the historically de minimis nature of the transportation performed by it in intrastate commerce, subject to this Commission's jurisdiction, compared to its operations, in interstate commerce subject to the jurisdiction of the ICC. As support for its allegations, applicant cites Decision (D.) 90470 dated June 19, 1979 in Application (A.) 57163 (Leeco Enterprises,

Inc. and IML Freight, Inc.) and D.93627 dated October 6, 1981 in A.60905 (A&W Investments, Inc., IML Freight, Inc., and Interstate Rental of Utah), in which this Commission granted substantially identical exemptions for the delivery of security for loans to other carriers having substantial interstate operations and minimal intrastate operations in California.

PU Code Sections 829 and 853 require that the Commission review each case to determine their applicability to the facts set forth in the 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. The transaction has already received the approval of the Industrial Development Authority of the County of Los Angeles.

The Commission's Revenue Requirements and Transportation Divisions have reviewed the application and have concluded that the public interest does not require this Commission's prior specific approval, for the issuance of indebtedness or the encumbrance of carrier operating property, as described in the application.

The attorneys for applicant have requested that the application be granted expeditiously so that the transaction may be completed without further delay. If the delivery of the Loan Agreement and Deed of Trust is delayed, the tax exempt status of

the Bonds will be lost. This compelling financial circumstance justifies expedited action upon this application. Because of this, the effective date of this order should be today.

Findings of Fact

1. Ryder/P-I-E requests that it be exempted from the requirements of PU Code Sections 816-830 and 851-855 with respect to the encumbrance of property and the issuance of evidence of indebtedness by Ryder/P-I-E as described in the application.

2. During the past two and a half years, a very small percentage of systemwide revenues of Ryder/P-I-E and its predecessors were related to California intrastate operations.

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

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

5. Compelling financial circumstances require expedited action on this application.

Conclusions of Law

1. It is proper to exempt applicant's proposed transaction from PU Code Sections 816-830 and 851-855, which prohibit the issuance of any evidence of indebtedness or encumbrance of any necessary or useful utility property without prior Commission approval.

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 enable the applicant to close the transaction expeditiously.

O R D E R

IT IS ORDERED that Ryder/P-I-E Nationwide, Inc. is exempted, under PU Code Sections 816-830 and 851-855, from any and all requirements that it obtain approval from the Commission for the execution and delivery of the Loan Agreement and related Deed of Trust as described in the application.

This order is effective today.

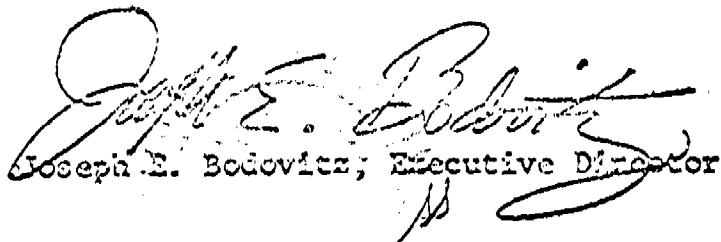
Dated NOV 22 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
FRISCILLA C. GREW  
WILLIAM T. BAGLEY  
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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

  
Joseph E. Bodovitz, Executive Director