

Decision 83 11 079 NOV 22 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
TRANSCON LINES, a California)
corporation, to execute a loan and)
security agreement and promissory)
note.)

Application 83-11-04
(Filed November 2, 1983)

O P I N I O N

Transcon Lines (Transcon) requests an order which would accomplish either of the following:

1. Authorize Transcon to execute a Loan and Security Agreement (Agreement) and to issue a Promissory Note (Note) substantially in the same form as those attached to the application as Exhibits 1 and 2, respectively, or
2. To exempt Transcon from the necessity of obtaining such authority by finding, under PU Code Sections 829 and 853, that the public interest does not require approval due to Transcon's de minimis intrastate traffic.

Summary of Decision

This decision exempts Transcon from compliance with PU Code Sections 816 and 851 with respect to the encumbrance of property and the issuance of evidences of indebtedness described in the application.

Notice of the filing of the application appeared on the Commission's Daily Calender of November 4, 1983. No protests have been received.

Transcon, a California corporation, engages in the transportation of general commodities by motor vehicle. 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 under File T-59379. Transcon maintains 21 terminals in California but reported no California intrastate revenue in 1982. Transcon also operates in interstate commerce under authority granted by the Interstate Commerce Commission in Docket MC-110325.

Transcon reports it generated \$206,738,000 of gross operating revenue in the first nine months of 1983 and net income of \$353,000 shown as part of Exhibit 3 attached to the application. Transcon states that all of this revenue was earned in interstate operation. Historically, Transcon has reported only de minimis operations under its California intrastate certificate authority. Transcon has reported no California intrastate revenues during the past three years. The company reported net operating losses of \$7,172,000 and \$7,495,000 in calendar years 1982 and 1981, respectively, from its interstate operations.

Also shown as part of Exhibit 3 is Transcon's Balance Sheet as of September, 1983, summarized as follows:

<u>Assets</u>	<u>Amount</u>
Net Property and Equipment	\$27,924,000
Intangible Property and Investments	2,175,000
Current Assets	<u>51,423,000</u>
Total	\$81,522,000
<u>Liabilities and Equity</u>	
Common Equity	\$24,959,000
Long-Term Debt	19,993,000
Current Liabilities	33,146,000
Deferred Credits	<u>3,424,000</u>
Total	\$81,522,000

In order to alleviate Transcon's financial burdens, the company reports its employees have agreed to forego 12% of their wages in return for 3,132,600 shares of stock in Transcon's parent company, Transcon Incorporated.

Transcon alleges that to remain competitive it must modernize its fleet at a cost of \$80,000,000, of which equipment having a value of \$4,000,000 is being acquired in December 1983 and \$18,000,000 in 1984.

Transcon seeks the Commission's approval of an Agreement entered into with General Electric Credit Corporation (G.E. Credit) by which Transcon may borrow up to \$30,000,000. The Agreement is shown as Exhibit 1 attached to the application.

G.E. Credit proposes to provide two credit facilities. The first is a short-term revolving line of credit in the maximum aggregate amount of the lesser of \$25,000,000 or 85% of Transcon's eligible accounts receivable outstanding at any time. This short-term facility is secured only by Transcon's accounts receivable and has a limited term not to exceed six months.

The second, main credit facility, which is to replace the short-term facility, is composed of the following:

1. A revolving line of credit in an amount not to exceed the lesser of \$20,000,000 or 85% of Transcon's eligible accounts receivable and
2. A five-year term loan in an aggregate principal amount of up to \$10,000,000. All liabilities under the short-term and main credit facilities will bear interest at a floating annual interest rate equal to 1-1/4% in excess of the higher of the then existing prime rate or the commercial paper rate; provided, however, that Transcon, at its option, may convert the interest rate payable on the \$10,000,000 term loan to a fixed annual rate equal to 3% of the prime rate or the commercial paper rate in effect at the time the option is exercised.

The Agreement requires Transcon to maintain financial ratios and to satisfy other operating conditions. Failure to meet these requirements will result in the conversion of the long-term obligation to a short-term liability by which G.E. Credit will control all proceeds of the accounts receivable and readvance moneys to Transcon on a discretionary basis.

The main credit facility will be secured by liens and security interests primarily on accounts receivable and rolling stock (motor vehicle equipment). In the event of default, G.E. Credit will have the right to collect the accounts receivable and to sell, by public or private sale, all of the equipment and fixed assets.

Exhibit 2 of the application is a pro forma Note in the sum of \$10,000,000 to be executed by Transcon to evidence its obligation to G.E. Credit and the terms and conditions of the term loan.

The proceeds from the loan will be used by Transcon for the following purposes:

1. To purchase the motor vehicle equipment necessary to modernize its fleet and
2. To retire all of its long-term unsecured indebtedness in the total sum of \$19,717,101.30 as of October 18, 1983. A list of the creditors and the amount owing to each is set forth in Exhibit 4 of the application.

The Commission's Revenue Requirements Division has reviewed the application and is advised that the Commission's approval is not necessary for Transcon to grant a security interest in its accounts receivable. The Division concludes that providing G.E. Credit with security interests in other assets of Transcon and executing the Note for \$10,000,000 are in the public interest

warranting the Commission's approval under PU Code Sections 816 and 851. The question remains, however, as to whether the transaction should be exempted under the provisions of PU Code Sections 829 and 853. In view of the lack of any evidence that Transcon has been or is now engaged in intrastate traffic in California, we believe that the public interest does not require the Commission's approval.

PU Code Sections 829 and 853 require the Commission to review each case to determine its applicability to the facts set forth in the particular application. In this case, Transcon's operations, subject to the jurisdiction of this Commission, are minimal when compared to its overall interstate operations. 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 as proposed in this application.

The attorneys for Transcon have requested that the application be granted expeditiously so that the transactions may be completed without further delay. If the delivery of the Agreement and Note is delayed, Transcon may not be able to meet its pressing financial obligations or to purchase the new motor vehicle equipment on schedule.

Findings of Fact

1. Transcon, a California corporation, operates as a highway common carrier under the jurisdiction of this Commission.

2. Transcon seeks to obtain a loan in the aggregate principal amount of up to \$30,000,000 from G.E. Credit. This loan is to be secured by the Agreement set forth in Exhibit 1 attached to the application and calls for the encumbering of Transcon's accounts receivables and properties. The Agreement for short-term financing is secured solely by Transcon's accounts receivable.

3. Transcon requests that it be exempted from the requirements of PU Code Sections 816 and 851 with respect to the encumbering of its account receivables and properties as described in the Agreement attached to the application as Exhibit 1 because its California intrastate operations have historically been de minimis by comparison to its overall systemwide transportation service.

4. The Agreement provides for long-term financing evidenced by a Note in the principal sum of \$10,000,000.

5. Application of the requirements of PU Code Section 816 and 851 is not necessary in the public interest because of Transcon's de minimis intrastate operation.

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

Conclusions of Law

1. A public hearing is not necessary.
2. Transcon's proposed transaction should be exempted from provisions of PU Code Sections 816 and 851 which prohibit the issuances of any evidence of indebtedness or encumbrance of any necessary or useful utility property without prior Commission approval. The Commission is empowered to grant this exemption under PU Code Sections 829 and 853 if it finds the application of PU Code Sections 816 and 851 is not necessary in the public interest.
3. The application should be granted to the extent set forth in the order which follows.

This order should be effective on the date of signature to enable Transcon to close its financial transactions expeditiously.

O R D E R

IT IS ORDERED that Transcon Lines is exempted under PU Code Sections 829 and 853 from any and all requirements that it obtain approval from the Commission for the execution of the Loan and Security Agreement and the Promissory Note attached to the application as Exhibits 1 and 2, respectively.

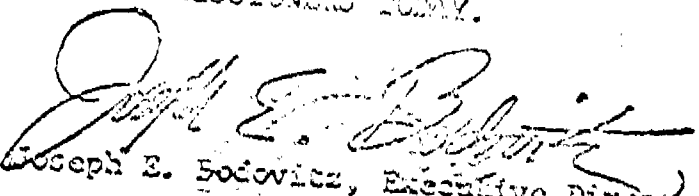
This order is effective today.

Dated NOV 22 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. CREW
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. Sodovitz, Executive Director