

ORIGINAL

Decision No. 87551 July 6, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of WEBER TRUCK AND WAREHOUSE, a
California corporation, for a
Certificate of Public Convenience
and Necessity to operate as a
Highway Common Carrier for the
transportation of property in
intrastate and interstate and
foreign commerce.

Application No. 56359
(Filed March 24, 1976)

Donald Murchison, Attorney at Law, for applicant.

O P I N I O N

This application was heard before Examiner Fraser at Los Angeles on December 2, 1976. A protest was filed by City Freight Lines on June 10, 1976. It was withdrawn on November 29, 1976 after applicant filed an amendment and restricted the scope of the application.

Applicant is a California corporation with its principal place of business at 2761 Fruitland Avenue, Vernon, California. It holds authority as a public utility warehouse from this Commission and also operates as a common carrier in interstate or foreign commerce, solely within California, pursuant to certificate of public convenience and necessity No. MC-41665 issued by the Interstate Commerce Commission. Applicant operates as a permitted carrier in California under the authority of radial highway common carrier and highway contract carrier permits.

Applicant has applied for a certificate of public convenience and necessity to authorize it to transport general

commodities in intrastate and interstate or foreign commerce between applicant's warehouses in Commerce and Vernon and all points in the Los Angeles Basin Territory and between Los Angeles and Long Beach Harbors and the Los Angeles Basin Territory. Applicant will provide the proposed service on a daily "on call" basis, Monday through Friday, with Saturday deliveries on request. No service will be provided on Sundays or holidays. The proposed service will be same day or overnight, depending on the time of pickup, size of shipment, and distance it is to be transported. Applicant will charge the rates published in the applicable Western Motor Tariff Bureau, Inc. tariffs for transportation performed in intrastate, interstate, and foreign commerce. Applicant's operating equipment includes 7 van-type trucks, 8 tractors, 6 trailers, 6 van trailers, a Ford station wagon, and a Ford T-Bird. Applicant's balance sheet for the ten months ending on October 31, 1976 shows total assets of \$392,000 and total liabilities of \$115,000. The income statement indicates a gross of \$1,618,000 with a net profit of \$135,000. Notice of this application was published in the Federal Register of April 15, 1976.

Applicant's general manager testified that he has been with the company for 15 years. Applicant was incorporated in 1924 and presently hauls from the Los Angeles Harbor through the commercial zone under its interstate authority. Intrastate hauls are performed under its contract permit. Applicant transports trailers from the railroad yard and harbor area to its warehouse in the city of Commerce. It is seeking authority to haul these trailers to any point in the Los Angeles Commercial Zone. He testified that applicant filed this application to accommodate its present customers who are demanding more frequent service to points it now serves as a permitted carrier. ✓

He noted that applicant "must grow with its shippers or fall by the wayside." He further testified that applicant must serve

a much greater territory on a daily basis and provide the rate advantages of a certificated carrier to continue to be competitive.

Four shippers testified for the applicant and 35 others submitted written statements which indicated their willingness to testify if called. The statements included descriptions of the company represented, commodity to be hauled, size of shipment, area served, and need for applicant's proposed service. The first witness called represented a chocolate manufacturer which ships from Chicago once or twice a week and stores its commodities in applicant's warehouse. Shipments from 300 to 20,000 pounds leave the warehouse on a daily basis for destinations all over the greater Los Angeles Basin. They have used applicant's service for seven years and will use the proposed service in both intrastate and interstate commerce. Business is increasing about 10 percent a year and applicant is favored because its employees take special care with the chocolate, which requires special treatment.

The second witness is a partner in a business which imports upholstery from Japan in 20,000- to 40,000-pound containers about seven times a month. All shipments are stored in applicant's warehouse, with more than 14 outgoing shipments a week to the Los Angeles area; each shipment averages about 3,000 pounds. Sales have tripled every month since June of 1976 and will at least double next year. This growth has been partially due to applicant's service which has been used for about two years.

A re-conditioner of typewriters and various business machines had a representative testify that his company's work is completed in Texas or Kentucky, shipped to California, and stored in applicant's warehouse; 10 to 50 shipments ranging in size from 300 to 2,000 pounds leave the warehouse daily for the Los Angeles Basin.

Applicant's service has been used since 1972 and is favored. If the proposed service is started, applicant will handle the interstate shipments which exceed shipments to the Los Angeles Basin in size and frequency.

A shipper of food items, industrial chemicals, and plastics has items coming in from Europe and Japan for storage in applicant's warehouse, several times a week. Shipments leave for destinations all over the Los Angeles Basin on a daily basis. Outgoing shipments can range from 25 to 40,000 pounds. Business is increasing every year and applicant's proposed service is needed.

The 35 shippers who provided written statements, but were not called to testify, ship tape, flavoring, candy, safes, appliances, tea, shopping bags, refrigerating equipment, chemicals, office supplies, plastic, hardware, animal foods, and electrical equipment from applicant's warehouse and the railyard to points within the Los Angeles Basin Territory and the harbor. All noted that they will use applicant's proposed service in intrastate and interstate commerce. It is the applicant's intention to petition the Interstate Commerce Commission for cancellation of the certificate of public convenience and necessity issued by the Interstate Commerce Commission in Docket MC-41665 upon the grant of this application and the issuance of a coextensive certificate of registration.

Findings

1. Applicant has the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.
2. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application and also require that applicant be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by this decision.

3. 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

1. The Commission concludes that the application should be granted as set forth in the ensuing order. The territorial description or routes of the authority granted reflect the names of redesignated highways and roads and do not in any way exceed the geographical scope of the proposed operation as published in the Federal Register.

2. Applicant should receive a certificate of public convenience and necessity which includes all authority previously granted to it by the Interstate Commerce Commission.

3. Applicant is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Weber Truck and Warehouse, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points of Los Angeles and Long Beach Harbors and the Los Angeles Basin Territory set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure so to do may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before April 30 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

(f) Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 6th day of July, 1977.

Paul B. Berman
President
William J. Quinn
Vernon L. Johnson
Richard W. Howell
Commissioners

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Appendix A

WEBER TRUCK AND WAREHOUSE
(a California corporation)

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Weber Truck and Warehouse, a California corporation, 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 Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

1. Between the carrier's warehouses in the City of Commerce and Vernon, and points and places within a radius of five (5) statute miles thereof, on the one hand, and points and places in Los Angeles Basin Territory as described in Note A hereof, on the other hand, and;
2. Between Los Angeles and Long Beach Harbors, on the one hand, and points in Los Angeles Basin Territory as described in Note A hereof, on the other hand.

Subject to the following restriction:

Restricted against the transportation of shipments in interstate and foreign commerce moving pursuant to contracts entered into under Section 409 of the Interstate Commerce Act.

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

- a. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, briefcases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).

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- b. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
- c. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
- d. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
- e. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
- f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- g. Logs.
- h. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
- i. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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NOTE A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 30); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX A)

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