

Decision No. 87574 July 12, 1977**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )	
of CITY FREIGHT LINES, a Cali- )	
fornia corporation, for authority )	Application No. 57322
to abandon a portion of its cer- )	(Filed May 18, 1977)
tificate of Public Convenience )	
and Necessity. )	

O P I N I O N

By Decision 84293 dated April 8, 1975, as amended by Decision 84897 dated September 12, 1975 in Application 55244, City Freight Lines, a California corporation, was granted an in-lieu certificate of public convenience and necessity to transport general commodities, with certain exceptions, as well as specific commodities as a highway common carrier between numerous Pacific Coast points extending from the San Francisco Bay area, on the north, to the San Diego area, on the south. Applicant holds a coextensive certificate of registration from the Interstate Commerce Commission. It also holds a statewide petroleum irregular route carrier certificate and permits issued by this Commission which are not involved herein.

By this application, applicant seeks to exclude from the general commodity portion of its certificate the authority to enter into written contracts with shippers for the leasing of its equipment by adding the following restriction to the certificate:

"Leasing of equipment with driver to a shipper(s) under written contract(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates."

If the sought authority is granted, applicant intends to perform such transportation under its highway contract carrier permit.

Applicant alleges that the cost of operating its vehicles at unit rates varies substantially with the type, size, and age of the equipment. It is impractical and uneconomical to attempt to publish tariff rates which are intended to meet the great variety of circumstances necessary to satisfy the needs of shippers. Some highway common carriers are willing to provide equipment at vehicle unit rates only if the customer will accept the usual type of equipment used in the ordinary service of highway common carriage.

The applicant wishes to accommodate the special requirements of particular shippers and thus must have the flexibility to obtain the particular type of equipment which meets the shipper's needs and to charge what it is worth. The variations of the required equipment specifications affect the cost of the equipment and, therefore, the relative rental value thereof. Further, applicant is not always aware of the identity of the articles transported under these arrangements. Bills of lading which list the commodities included in shipments and thereby provide a basis for the application of rates are not required when the Commission's Minimum Rate Tariff 15 equipment unit rates are assessed. By removing from its certificate the right to enter into such written agreements at vehicle unit rates, applicant will be in a position to assess rates at or above those established pursuant to Section 3662 of the Public Utilities Code or, where reasonable, to seek a deviation from the established minimum rates pursuant to Section 3666 of the Code.

Applicant participates in certain agency tariffs published on its behalf by Western Motor Tariff Bureau, Inc., Agent. If the relief sought herein is granted, it asks permission to have those tariffs, which are now applicable to such transportation, amended on one day's notice to the Commission and the public. It also asks that this matter be decided by ex parte order since the relief sought herein is not a matter of general transportation importance. According to applicant, no other highway carrier will be adversely affected by the granting of this application.

A copy of the application was mailed to the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of May 20, 1977. No protests to the application have been received.

After consideration, the Commission finds that the leasing of equipment with driver(s) to shipper(s) at unit rates is a service without regard to the kind of commodities loaded into the vehicle, whether any commodities are loaded into the vehicle, whether the equipment is idle portions of the time during the period of the contract, or whether the equipment is loaded or empty when idle.

The Commission concludes that the application should be granted, that applicant's highway common carrier certificate should be amended as set forth in the ensuing order, and that the necessary tariff amendments should be authorized for publication on one day's notice.

O R D E R

1. Appendix A of Decision 84293 dated April 8, 1975, as amended by Decision 84897 dated September 12, 1975 in Application 55244 is hereby further amended by incorporating therein First Revised Page 2, Second Revised Page 3, First Revised Page 4 and First Revised Page 5, all attached hereto and made a part hereof in place of Original Page 2, First Revised Page 3, Original Page 4 and Original Page 5, respectively.

2. Within sixty days after the effective date of this order and on not less than one day's notice to the Commission and the public, applicant shall amend its tariffs presently on file with this Commission to reflect the authority granted herein.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of July, 1977.

Commissioner CLAIRE T. DEDRICK did not participate in the disposition of this proceeding.

Robert Bateman  
President  
William Sproull  
Terrence L. Sturgeon  
Richard D. Howell

Commissioners

- j. State Highway 1 between Salinas and Castroville, inclusive.
- k. State Highway 1 between Castroville and Aptos, inclusive.
- l. U. S. Highway 101 between Gilroy and Madrone, inclusive.
- 3. Between all points on the following named highways:
  - a. U. S. Highway 101 between Thousand Oaks and San Jose, inclusive.
  - b. State Highway 23 between Fillmore and Moorpark, inclusive.
  - c. State Highway 150 between Santa Paula and Carpinteria and between Santa Barbara and Santa Ynez, inclusive.
  - d. State Highway 1 between Las Cruces and Lompoc, inclusive.
  - e. State Highway 1 between San Luis Obispo and San Simeon, inclusive.
  - f. State Highway 46 between Paso Robles and Cambria, inclusive.
  - g. State Highway 68 between Salinas and Monterey, inclusive including the off-route point of Spreckels.
  - h. State Highway 1 between Carmel and Santa Cruz, inclusive, including the off-route point of Fort Ord Military Reservation.
- \*4.
  - a. The authority set forth in subparagraphs 1 through 3 is subject to commodity exceptions Nos. 1, 3, 6, 7, and 13 through 17.
  - b. Through routes and rates may be established between any and all points described therein.
- \*5. Between points in the Los Angeles Territory as described in Note B, on the one hand, and all points described in subparagraphs 1, 2, and 3 above, on the other hand (Subject to commodity exceptions Nos. 1 through 7, 10, and 12 through 17).

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\*Amended by Decision 87574, Application 57322.

6. Between all points and places within the Los Angeles Basin Territory, as described in Note C, over and along the most appropriate streets and highways within said territory.
7. Between Santa Barbara, the Los Angeles Basin Territory and the San Diego-Escondido Territory, as described in Note D, over and along U. S. Highway No. 101, between Santa Barbara and its junction with Interstate Highway 5 in Los Angeles and over and along Interstate Highway 5 between its junction with U. S. Highway 101 and the San Diego-Escondido Territory, serving all intermediate points and all off-route points located on or within three miles laterally of said highway, including the points of Point Mugu, Port Hueneme, Oxnard, Santa Paula, Fillmore, Ojai, Goleta, Saticoy, Somis, Woodland Hills and Canoga Park.
- \*8. The authority set forth in subparagraphs 6 and 7 is subject to commodity exceptions Nos. 1 through 7, 9, 11, and 17.
- \*9. Between Los Angeles and Boron, serving all intermediate points and all points within ten miles laterally of State Highway 14 between its junction with Interstate Highway 5 near San Fernando and Rosamond, unnumbered county road between its junction with State Highway 14 at Rosamond and its junction with State Highway 58, near North Edwards, and State Highway 58 between its junction with unnumbered county road near North Edwards and Boron (Subject to commodity exceptions Nos. 1 through 6, 10, and 17).

COMMODITY EXCEPTIONS:

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

1. 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, brief cases, 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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\*Amended by Decision 87524 Application 57322.

2. 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.
3. 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.
4. 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 high-way vehicles.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when the 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. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
12. Commodities which by reason of their size, bulk or weight require special equipment.
13. Articles of extraordinary value as set forth in Rule 3 of Western Classification No. 77, J. P. Hackler, Tariff Publishing Officer, on the issued date thereof.

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14. Petroleum products in bulk in tank trucks or tank trailers.
15. Fresh fruits and vegetables.
16. Fertilizer.
- \*17. Any transportation under a written agreement between carrier and shipper for the furnishing of equipment with driver and providing for exclusive use of a vehicle or combination of vehicles, at hourly, daily, weekly, monthly or yearly vehicle unit rates.

II. SPECIFIED COMMODITIES

1. Cattle and poultry feed, seeds, fertilizer (including unrefined sulphur), insecticides, lumber, cement, and building materials in quantities of not less than 4,000 pounds per shipment from one consignor to one consignee.

From Los Angeles, San Pedro, Wilmington, Vernon, South Gate, Huntington Park, Long Beach, Inglewood, Glendale, Pasadena, San Francisco, South San Francisco, Oakland, San Leandro, Berkeley, Emeryville, San Jose, Santa Clara and Permanente to Arroyo Grande and points within a three-mile radius thereof.

2. a. AGRICULTURAL IMPLEMENTS, HAND, OR PARTS NAMED, as listed under that heading in Items 2710 through 3191.
- b. AGRICULTURAL IMPLEMENTS, OTHER THAN HAND, as listed under that heading in Items 3205 through 4051.
- c. AGRICULTURAL IMPLEMENTS PARTS, OTHER THAN HAND, as listed under that heading in Items 4065 through 4661.
- d. BASKETS OR HAMPERS, as listed under that heading in Items 10320 through 10670.
- e. BOXES OR CRATES, INCLUDING FIBREBOARD, PAPER OR PULPBOARD, BOTTLES OR CANS, as listed under that heading in Items 13845 through 14646.
- f. FISH, FRESH OR FROZEN, as listed under that heading in Items 38505 through 38575.

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