

ORIGINAL

Decision No. 87756 AUG 23 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ARROW TRUCKING CO. OF CALIFORNIA, INC., a California Corporation, for extension of Highway Common Carrier Certificate of Public Convenience and Necessity in intra-state service and in interstate service.

Application No. 56161
(Filed December 30, 1975;
amended March 21, 1977)

O P I N I O N

By amended application Arrow Trucking Co. of California, Inc. (Arrow), a California corporation, requests that its present certificate to operate as a highway common carrier be amended to authorize it to transport commodities requiring temperature control and containers, subject to certain restrictions, and that an in lieu certificate be issued covering such amended authority. Arrow also requests that the Commission make a finding that public convenience and necessity require the same service in interstate commerce. The application was initially protested by Bayview Trucking, Inc., which withdrew its protest after the application was amended.

Arrow currently conducts highway common carrier operations over a network of highways in an area generally bounded by Fresno and Monterey on the south and San Rafael and Sacramento on the north. Its gross revenue for the nine-month period ended September 30, 1975 was \$695,000, and its net worth as of that date was \$68,183. It operates a moderately extensive fleet of equipment, many pieces of which are capable of transporting the additional commodities requested. Arrow also operates as a permitted carrier.

By decision No. 81755 dated August 21, 1973 in Application No. 53962, Arrow was authorized to transport general commodities, with stated exceptions, within the territory as specified in said decision. A co-extensive Certificate of Registration was issued by the Interstate Commerce Commission under Docket No. MC 121715 dated January 11, 1974. Five years prior to the receiving of the certificate of public convenience and necessity, Arrow states that it was engaged in the transportation of commodities requiring temperature control service as a permitted carrier. When the certificate of public convenience and necessity was issued, Arrow claims that it was advised by legal counsel that shipments of commodities requiring temperature control could be transported in the area specified in the certificate under permitted authorities presently in existence, even though these commodities were excluded from the certificate of public convenience and necessity. Arrow transported shipments requiring temperature control service on this basis until a recent informal opinion from the staff was received, wherein the staff stated that in order for Arrow to transport such commodities, these commodities must be included in Arrow's certificate of public convenience and necessity. Customer service requirements of certain clients of Arrow require that mixed shipments of general commodities and those commodities requiring temperature control be transported simultaneously to one consignee. In order for Arrow to provide this complete service, and to maintain present business, Arrow claims that it is imperative that Arrow be permitted to transport commodities requiring temperature control within the area presently authorized by its certificate.

Arrow states that its present customers are desirous of utilizing Arrow's service with respect to shipments in containers, over 20 feet in length, that have had a prior or will have a subsequent movement by water. While transportation of containers over 20 feet in length would constitute but a small portion of

Arrow's business, Arrow should be granted authority in order to provide an overall service to present clients, and to more effectively utilize Arrow's equipment and personnel by providing this service. Arrow will assess rates on the same level as those contained in the Commission's Minimum Rate Tariff 2 and other applicable minimum rate tariffs.

The additional authority which the application requests is authority to transport (a) containers, except those containers that have had a prior or will have a subsequent movement by air, and (b) commodities requiring temperature control for the federal government, the State of California, or those which move in containers that have had a prior or will have a subsequent movement by water or air.

After consideration the Commission finds that:

1. Applicant is presently providing intrastate and interstate service in the service area requested in the application.
2. Applicant possesses the necessary equipment and financial ability to provide the proposed service.
3. A protest was filed by Bay View Trucking, Inc. which was withdrawn after the application was amended.
4. A copy of the application was published in the Federal Register of August 6, 1976.

5. 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. A hearing is not necessary.

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.

Arrow 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 Arrow Trucking Co. of California, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes 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.

3. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 81755, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 2(b).

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

Dated at San Francisco, California, this 23rd
day of AUGUST, 1977.

Robert Batjourny
President
William J. Lyons
Verdon L. Lingen
Richard D. Givall

Commissioners

Commissioner CLAIRE T. DEDRICK
present but not voting.

Arrow Trucking Co. of California, 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 Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

Between all points on and within twenty-five (25) statute miles of points on the following routes:

1. U.S. Highway 101 between San Rafael and Salinas, inclusive;
2. State Highway 17 between San Rafael and Santa Cruz, inclusive;
3. State Highway 1 between Santa Cruz and Monterey, inclusive;
4. Interstate Highway 80 between San Francisco and Sacramento, inclusive;
5. State Highway 4 between its junction with Interstate Highway 80 near Pinole, and Stockton, inclusive;
6. Interstate Highway 580 between Oakland and its junction with Interstate Highway 5 near the San Joaquin - Stanislaus County boundary line, inclusive;
7. Interstate Highway 205 between its' junction with Interstate Highways 580 and 5, inclusive;
8. Interstate Highway 5 between Stockton and its junction with State Highway 152, near Los Banos, inclusive;
9. State Highway 99 between Sacramento and Fresno, inclusive;
10. State Highway 152 between its' junctions with Interstate Highway 5, near Los Banos, and State Highway 99, near Chowchilla.

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RESTRICTIONS:

No service shall be provided:

- (a) To, from or between points on or within five (5) statute miles of U. S. Highway 101 north of Novato
- (b) For the transportation of containers that have had a prior or will have a subsequent movement by air except as provided in (c) below.
- (c) For the transportation of commodities requiring temperature control, except for the Federal Government, the State of California, or in containers that have had or will have a subsequent movement by water or air.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

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).
- 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.

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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 highway 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.
0. Fresh Fruits and Vegetables.

(END OF APPENDIX A)

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