

ORIGINAL

Decision No. 88087 NOV 8 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of CUTTER AIR FREIGHT, INC., a
corporation, for certificates of
public convenience and necessity
as an air freight forwarder and
as an express corporation of
general commodities between
points in the State of California.

Application No. 57105
(Filed February 22, 1977;
amended May 23, 1977
and June 29, 1977)

O P I N I O N

Cutter Air Freight, Inc. (Cutter), a California corporation, by this amended application requests issuance of a certificate of public convenience and necessity pursuant to the provisions of Section 1010 of the Public Utilities Code to conduct business as a freight forwarder and express corporation transporting general commodities, utilizing the lines of air common carriers, highway common carriers, and passenger stage corporations between Hollywood Burbank, Los Angeles, San Francisco, San Jose, Oakland, Ontario, Sacramento, and San Diego, subject to the following conditions:

1. The underlying carrier used by Cutter between airports shall be an air common carrier, except that in emergencies only highway common carriers or passenger stage corporations may be used as underlying carriers to provide the transportation.
2. The authority to ship via the lines of highway common carriers and passenger stage corporations is limited to pickup and delivery service within a twenty-five (25) mile radius of the above-named points, except as provided in Condition 1 above.

Cutter has obtained authority from the Civil Aeronautics Board to operate as an interstate air freight forwarder and as an international air freight forwarder, and has approval from the Air Transportation Association. Cutter's principal place of business is in South San Francisco, and it has established prospective working relationships with independent forwarders in major cities. Cutter asserts that the movement of air freight cargo on an intrastate basis is a necessary incident to enable it to adequately service its customers who ship interstate and to provide service for its shippers within the State of California. Granting this authority will enable Cutter to serve its shipping public more efficiently by providing a complete specialized door-to-door service for air freight shipments with simplified accounting for its shippers.

Cutter proposes to move commodities it is authorized to transport by picking them up or causing them to be picked up from the consignor's place of business, consolidating them, and transporting them to the airport for shipment by air common carrier to the destination airport, where the property would in turn be picked up by motor vehicle and after segregation be delivered to the consignee. Cutter would assume responsibility for the through transportation of the property from origin to destination, charging rates pursuant to those set forth in Commission tariffs.

Cutter's balance sheet dated June 1976 shows total assets of \$27,000 with no liabilities. Copies of the application were served on those common carriers with which the proposed service is likely to compete as required by Rule 21(f) of the Rules of Practice and Procedure, and the application was listed on the Commission's Daily Calendar of February 24, 1977. There was but one protest, that of the California Trucking Association. It related to the proposed scale of charges and the geographical scope of the proposed operation. After amendment the protest was withdrawn. Accordingly, no public hearing is indicated.

Findings

1. The applicant possesses the financial ability and business associations required to institute and maintain the proposed service.
2. Public convenience and necessity require that the proposed service be authorized.
3. It can be seen with certainty that there is no possibility that the proposed service may have a significant effect on the environment.
4. A public hearing is not necessary.

Conclusion

The application should be granted as set forth in the ensuing order.

Cutter Air Freight, Inc. is hereby 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 Cutter Air Freight, Inc. authorizing it to operate as a freight forwarder and an express corporation as defined in Sections 220 and 219, respectively, of the Public Utilities Code and as more particularly set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with and observe the following service regulations. Failure so to do may result in a 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.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and 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. 117-Series.
- (e) Applicant shall file with the Commission, on or before March 31 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 the applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings required by the General Order.

- (g) Applicant shall comply with the requirements of the Commission's General Order No. 100-Series and the safety rules administered by the California Highway Patrol if applicant intends to operate a motor vehicle under its freight forwarder authority.

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

Dated at San Francisco, California, this 8th day of NOVEMBER, 1977.

Robert Butinaich
President
William Sproull
Harold L. Sproull
Richard R. Sproull

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

Cutter Air Freight, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a freight forwarder and express corporation, as defined in Sections 220 and 219, respectively, of the Public Utilities Code, via the lines of air common carriers, highway common carriers, and passenger stage corporations, subject to the following conditions:

1. Cutter Air Freight, Inc. shall not ship or arrange to ship any property unless such property is transported by aircraft between two of the following airports:
 - Hollywood-Burbank Airport
 - Los Angeles International Airport
 - San Francisco International Airport
 - San Jose Municipal Airport
 - Oakland International Airport
 - Ontario International Airport
 - Sacramento Metropolitan Airport
 - San Diego International-Lindbergh Field
2. Cutter Air Freight, Inc. shall not ship or arrange to ship any of the following property:
 - (a) Human remains;
 - (b) Animals, live;
 - (c) Shipments requiring special devices for safe handling will not be accepted unless such special devices are provided and operated by and at the expense of the shipper or consignee;
 - (d) Shipments which require the forwarder to obtain a federal, state, or local license for their transportation;
 - (e) "In Bond" shipments;
 - (f) Shipments of furniture or household goods;
 - (g) Shipments consigned "To Order Of" or "To Order Notify";

- (h) Shipments of gold and other precious articles;
 - (i) Shipments requiring special care or attention while being transported; and
 - (j) Shipments not accompanied by proper documentation and necessary information as required by Cutter Air Freight, Inc.'s tariff or governing tariffs.
3. The underlying carrier used by Cutter Air Freight, Inc. between airports shall be an air common carrier, except that in emergencies only, such as an airport being closed because of inclement weather, highway common carriers or passenger stage corporations may be used as underlying carriers to provide the transportation.
 4. No collection or distribution service shall be provided by Cutter Air Freight, Inc. to or from any point more than 25 statute miles distant from any airport served by it unless said service beyond said 25 statute miles is performed by a highway common carrier. As used herein "point" means any point within 25 statute miles of the city limits of any city in which is located an airport, or 25 statute miles of any airport located in an unincorporated area.
 5. Cutter Air Freight, Inc. shall establish door-to-door rates for service between airports, including points within 25 statute miles thereof as defined in paragraph 4 herein. On traffic moving to or from points beyond said 25-mile radius, Cutter Air Freight, Inc. shall, in addition to said door-to-door rates, assess the lawful tariff rates of any highway common carrier utilized to perform said beyond service.

(END OF APPENDIX A)