

Decision No. 88364 JAN 17 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

(a).....)

(b) PUBLIC DISTRIBUTION CORPORA-)
TION, a California corporation, for)
authority to transfer a portion of)
its certificated highway common)
carrier rights to INTERAMERICAN)
STAR TRUCK AND WAREHOUSE CORPORA-)
TION, a California corporation....)(c) PUBLIC DISTRIBUTION CORPORA-)
TION, a California corporation, for)
authority to remove "Vernon" ware-)
house and substitute Commerce,)
California, when transferring a)
portion of its certificated highway)
common carrier rights to INTER-)
AMERICAN STAR TRUCK AND WAREHOUSE)
CORPORATION, a California corpora-)
tion; and)

(d).....)

(e) INTERAMERICAN STAR TRUCK AND)
WAREHOUSE CORPORATION, a California)
corporation, for a Certificate of)
Public Convenience and Necessity)
extending highway common carrier)
service by removing "Vernon" ware-)
house and substituting Commerce,)
California in the certificate it)
seeks to acquire from PUBLIC DIS-)
TRIBUTION CORPORATION, pursuant to)
the instant petition.)Application No. 57077
Petition for Supplemental
Order in Decision No.
87486 dated June 21, 1977
in Application No. 57077,
filed February 14, 1977,
and amended March 28, 1977

(Petition Filed October 20, 1977)

SUPPLEMENTAL OPINION

By its Petition for Supplemental Order amending Decision 87486 dated June 21, 1977 in this proceeding, Interamerican Star Truck and Warehouse Corporation (STAR), a California corporation, seeks amendment of said decision by which it was granted an in-lieu intra-state certificate through a partial transfer and an extension of the operating rights formerly held by Public Distribution Corporation (PUBLIC).

STAR's in-lieu certificate granted in Appendix B of Decision 87486 met all of this Commission's requirements for the granting of such intrastate authority. However, when STAR sought to obtain coextensive single-state interstate authority within California, its Notice of Filing of Application 57077 with this Commission for publication in the Federal Register, submitted to the Interstate Commerce Commission (ICC), was found to be deficient and thus was ultimately rejected by the ICC since the filing did not fully comply with the governing provisions of Section 206 (a) (6) of the Interstate Commerce Act.

The instant petition was filed by STAR in order to remedy a procedural defect which required it to cause publication in the Federal Register of the fact that STAR was not only seeking a transfer of a portion of PUBLIC's existing state certificate, which authority serves to support the interstate Certificate of Registration, but was also seeking to obtain a concurrent finding by this Commission that public convenience and necessity require the proposed extension of operating rights in intrastate, interstate and foreign commerce operations.

That portion of the state certificate held by PUBLIC, the transferor, was originally restricted to the transportation of shipments originating at or destined to that carrier's warehouse in Vernon. However, by Decision 87486, this Commission authorized the transfer and granted to STAR, the transferee, authority to substitute the City of Commerce in place of Vernon and also to remove the existing warehouse restriction.

STAR avers that the facts alleged by it in its original Application 57077, as amended, are relevant to the instant petition and thus it desires that such facts be incorporated by reference and realleged as though actually set forth in this petition. STAR has proven that it is fit, willing and able to conduct the operations of a highway common carrier by its conduct as such while previously operating under other certificated authority. STAR proposes to adopt the same bureau tariffs as those in which PUBLIC, its predecessor, formerly participated.

A copy of the "Petition for Supplemental Order in Decision No. 87486" filed herein, together with a copy of STAR's intrastate in-lieu certificate which included its proposed extension of the authority acquired from PUBLIC, has been filed with the Interstate Commerce Commission and notice of such filing appeared, as required, in the Federal Register on November 25, 1977.

A copy of this petition was mailed by STAR to the California Trucking Association. Notice of the filing of said petition appeared in the Commission's Daily Calendar of October 24, 1977. No protests to the petition for a supplemental order have been received.

Petitioner requests a waiver from the provisions of the Commission's Rules of Practice and Procedure, which require a wide dissemination of such petitions, as it believes no other motor carrier interest will be affected by the extension of service as proposed herein. Petitioner also requests that the Commission issue an ex parte supplemental order granting the authority sought herein.

After further consideration, the Commission finds that:

1. Notice of the filing of the petition involved herein was duly published in the Federal Register on November 25, 1977.

2. A reasonable opportunity has been given to the public to appear in opposition to the granting of said petition.

3. Public convenience and necessity require the continuation of STAR's intrastate operations authorized by Decision 87486 and also require that STAR be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations heretofore authorized by Decision 87486 as described in Appendix "B" thereof.

4. In order to facilitate the exercise of the supplemental authority sought herein by STAR, and also to enable it to reregister its in-lieu California certificate with the Interstate Commerce Commission in order to obtain the desired Certificate of Registration therefrom, the order which follows should be made effective on the date it is signed.

5. The deviation from this Commission's Rules of Practice and Procedure requested by the petitioner herein should be authorized.

The Commission concludes that the petition filed herein for a supplemental order to amend Decision 87486 should be granted as set forth in the ensuing order and that the effective date of said order should be the date on which it is signed. A public hearing is not necessary.

The territorial description in the authority granted to STAR reflects the current identification of redesignated highways and roads and does not, in any way, exceed the geographical scope of the proposed operations as published in the Federal Register.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. Finding 5 of Decision 87486 is amended by deleting therefrom any reference to Interamerican Star Truck and Warehouse Corporation (STAR).
2. Ordering paragraph 2 of Decision 87486 which provides for the transfer of a designated portion of the certificated operating rights involved herein from Public Distribution Corporation, transferor, to Interamerican Star Truck and Warehouse Corporation, transferee, is hereby amended by substituting the date of July 1, 1978 in place and stead of December 1, 1977.
3. Except as amended or supplemented by the order herein, Decision 87486 shall remain in full force and effect.

A. 57077 - CAS/DDM

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17th
day of JANUARY, 1978.

William J. Sproul President
Vernon L. Stenger
Robert D. Hinkle
Clair T. Smith Commissioners

Commissioner Robert Batinovich, being
necessarily absent, did not participate
in the disposition of this proceeding.