

ORIGINAL

Decision No. 88480 FEB 7 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 U. S. COURIER CORPORATION, a
 corporation, for certificates of
 public convenience and necessity
 as an air freight forwarder of
 general commodities between
 points in the State of California.

Application No. 56106
 (Filed December 2, 1975)

(For appearances see Appendix A.)

O P I N I O N

Applicant U. S. Courier Corporation (US), a California corporation, pursuant to Section 1010 of the Public Utilities Code (Code), requests a certificate of public convenience and necessity to operate as a freight forwarder as defined in Code Section 220 for the transportation of general commodities via the lines of air common carriers, highway common carriers, and passenger stage corporations between the points and places within California as set forth in Exhibit 5 of the record herein.

In support of the application US states it is currently providing a courier service within California under radial highway common carrier and highway contract carrier permits. Granting of the certificate requested will enable US to more adequately serve its courier service customers by being able to provide specialized door-to-door service, expedited ground handling of air freight shipments, and simplified accounting procedures. US will be able to provide a complete transportation service from origin to destination and would charge rates pursuant to tariffs approved by the Commission. Because there will be shipment volume differences between the larger and the smaller cities to be served which affect costs of service, US requests authority to depart from the long- and short-haul provisions of the Code.

Originally there were a number of protestants to the application and a prehearing conference was held on February 10, 1976. The presiding officer issued a memo of that conference dated March 25, 1976 recommending a hearing be held. Hearings before Administrative Law Judge Albert C. Porter were held in Los Angeles on October 25, 1977 and October 26 when the matter was submitted. Only one protestant, United Couriers, Inc. (UC), appeared at the hearings.

The vice president of US gave a general outline of its present operations. US offers expedited and scheduled small parcel surface and air courier service to its customers between points generally in southern California. Occasionally it serves northern California points. Its expedited service usually involves pickup and delivery within one to two hours; scheduled service is same day or overnight. Parcel size averages 25 to 30 pounds and consists mostly of computer input/output material, bank related documents, messages, legal documents, etc. US has between 400 and 500 customers, providing them service 24 hours per day, 7 days per week. Business has increased steadily; revenues for the year ended June 30, 1976 totaled \$1,110,000 and for June 30, 1977 were \$1,841,000. Earnings for the year ended June 30, 1977 were \$38,638 after taxes. As of June 30, 1977 current assets and liabilities were \$130,443 and \$64,025, respectively. US employs 22 office personnel and 120 drivers. Most of the vehicles used by US are owned by the drivers and leased to US.

US produced nine witnesses who supported the application. All are regular shippers using US services; they represented the following firms: Automated Management Services which provides electronic data processing (EDP) for hospitals; Coopers and Lybrand, an accounting firm; TRW Information Services Division, a computerized credit information service; Decimus Corporation which provides EDP

for banks and other institutions; Price Waterhouse and Company, certified public accountants; Carte Blanche Corporation, EDP services for various companies; American City Bank, general banking services; TRW Systems Credit Union, financial services, savings and loans; and O'Melveny & Myers, attorneys. These shippers represent about 25 percent of US revenues. Collectively, they, more or less, testified to the following:

Commodities shipped generally consist of papers and documents;

Packages are small in size, weighing less than 50 pounds;

An important reason for using US is its fast, reliable service;

US gives expedited service to the smaller cities to which other carriers will give only two to three day service;

Air service is essential if shipper customers are to be served on a timely basis;

US is willing to serve new areas as required;

There are definite advantages in dealing with only one carrier;

A regular, daily service is required with at least overnight delivery;

Scheduled as well as on-call service is desirable;

It is preferred that one carrier furnish both ground and air transportation so that operational and accounting problems are minimized; and

The present service provided by US is excellent.

The vice president of protestant UC testified for that company. UC is a certificated freight forwarder in California by air common carrier and passenger stage.^{1/} Commodities transported include the type of commodities transported by US. It has 21 offices, 300 vehicles, and 400 drivers in its California operation. For some

^{1/} In addition to its freight forwarder certificate UC holds an express corporation certificate and radial highway common carrier and highway contract carrier permits.

operations it uses its own aircraft. It has about 100 air freight customers in California and its major air freight service is between Hollywood/Burbank and San Francisco airports. There are more than 10 air freight forwarders in California. If US is granted a certificate, it would increase competition in the industry although with respect to the nine firms that testified for US, UC does not have their business. The witness did not know how much revenue UC earns from its freight forwarder certificate; therefore, the extent of competition between US and UC is not known.

Findings

1. The applicant possesses the financial ability and business experience 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. In order to provide the lowest overall rates to shippers, the long- and short-haul departure requested by applicant should be authorized.

Conclusion

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

US 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 U. S. Courier Corporation authorizing it to operate as a freight forwarder as defined in Section 220 of the Public Utilities Code and as more particularly set forth in Appendix B 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.

3. To the extent necessary to reflect in rates the traffic volume differences of the points to be served by applicant, applicant is authorized to depart from the long- and short-haul provisions of Public Utilities Code Section 460.

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

Dated at San Francisco, California, this 7th day of FEBRUARY, 1978.

Robert Bateman
President
William Sproule, Jr.
Veron J. Shilgen
Charles P. Howell
Clair J. Sediel
Commissioners

APPENDIX A

List of Appearances

Applicant: Milton W. Flack, Attorney at Law, for U. S. Courier Corporation.

Protestant: Russell, Schureman & Hancock, by Robert W. Hancock, Attorney at Law, for United Couriers, Inc.

Interested Parties: Handler, Baker & Greene, by Marvin Handler, Attorney at Law, for U. S. Messenger Service and Media Air Cargo; Arthur D. Maruna and Herbert W. Hughes, for California Trucking Association; and J. L. Glovka, Attorney at Law, for Loomis Courier Service, Inc.

Commission staff: James Squeri, Attorney at Law, and Chauncey Griggs.

U. S. Courier Corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a freight forwarder, as defined in Section 220 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. Applicant shall not ship or arrange to ship any property unless such property shall have transportation by aircraft originating at one of the following airports:

Lockheed Air Terminal (Burbank)
 Los Angeles International Airport
 San Francisco International Airport
 Oakland Airport
 Sacramento Airport
 San Diego Airport

on the one hand, and terminate at the following points served by air common carriers, on the other hand:

Arcata	Los Angeles	Salinas
Bakersfield	Marysville	San Bernardino
Blythe	Merced	San Diego
Burbank	Modesto	San Francisco
Chico	Monterey	San Jose
Crescent City	Oakland	San Luis Obispo
El Centro	Ontario	Santa Ana
Eureka	Oxnard	Santa Barbara
Fresno	Palmdale	Santa Maria
Indio	Palm Springs	Santa Rosa
Laguna Beach	Paso Robles	Stockton
Lake Tahoe	Redding	Ventura
Lancaster	Riverside	Visalia
Long Beach	Sacramento	Yuba City

2. The underlying carrier used by U. S. Courier Corporation between airports shall be an air common carrier, except that in

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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.

3. No collection or distribution service shall be provided by U. S. Courier Corporation to or from any point more than 25 airline miles distant from any airport served by it unless said service beyond said 25 airline miles is performed by a highway common carrier. As used herein "point" means any point within 25 airline miles of the city limits of any city in which is located an airport, or 25 airline miles of any airport located in an unincorporated area.

4. U. S. Courier Corporation shall establish door-to-door rates for service between airports, including points within 25 miles thereof as defined in Paragraph 3 herein. On traffic moving to or from points beyond said 25-mile radius U. S. Courier Corporation 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.

5. U. S. Courier Corporation shall not forward any shipments containing commodities prohibited by law from transportation by aircraft.

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