

Decision No. 89544 OCT 17 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of FLEET MESSENGERS OF CALIFORNIA,)
INC., a California corporation,)
doing business as FLEET MESSENGER)
SERVICES, INC., for a certificate)
of public convenience and neces-)
sity as an air freight forwarder)
of general commodities between)
points in the State of California.)

Application No. 58318
(Filed August 23, 1978)

OPINION AND ORDER

Fleet Messengers of California, Inc., a California corporation, doing business as Fleet Messenger Services, Inc. seeks a certificate of public convenience and necessity authorizing it to operate as a freight forwarder utilizing the lines of air common carriers, highway common carriers, and passenger stage corporations in the transportation of property by aircraft originating at airports in Burbank, Los Angeles, San Francisco, Oakland, Sacramento and San Diego, and terminating at various points in California.

Edward Sarnoff is the sole shareholder of all of the issued and outstanding stock of applicant. Edward Sarnoff is also the sole shareholder of all of the issued and outstanding stock of Fleet Courier Service, a New York Corporation, which is engaged in the business as a domestic air freight forwarder under Civil Aeronautics Board Operating Authority No. 574, and operates in Los Angeles, New York and Washington D.C.

Applicant is a newly formed corporation and since it has not yet obtained the requested operating right it is unable to submit, at this time, a balance sheet and an operating statement. Accordingly, it submits a pro forma balance sheet and operating statement setting forth applicant's projected financial condition after six months of operation.

Applicant states it will act as an agent on behalf of Fleet Courier Service in connection with its interstate air freight transportation. The granting of the authority requested herein would enable applicant to serve the public by providing specialized door-to-door service, by expediting the handling of shipments, and by simplifying accounting procedures.

Applicant proposes to provide pickup and delivery service within 25 statute miles of the airports served. No collection or distribution service will be provided to or from any point more than 25 statute miles distant from any airport unless said beyond service is provided by a highway common carrier. The charge for the beyond service will be in addition to the charge for door-to-door service.

The operation contemplated by applicant involves the pick up of property from the consignor, the consolidating of the property with other properties on hand, the transporting of the properties to the airport for shipment by air common carrier to the destination airport, where the property would be picked up by motor vehicle and after segregation be delivered to the consignee. Applicant would assume responsibility for the through transportation of the property from origin to destination.

Applicant alleges that the high frequency of flights plus the low air transportation costs between Los Angeles, San Francisco, Oakland and San Diego make it economical, resulting in lower charges assessed to and/or from these points than those points with less frequent flights, even though a shorter distance may be involved. Applicant therefore requests that it be authorized to depart from the long- and short-haul provisions of Section 461.5 of the Public Utilities Code.

Financial statements included in the application show that applicant has the financial ability to inaugurate and operate the proposed service.

The certificate of service indicates that applicant mailed the application to various interested parties on August 22, 1978. The application was listed on the Commission's Daily Calendar of August 30, 1978. No objection to the granting of the application has been received.

In the circumstances, the Commission finds that:

1. Applicant has the experience and financial ability required to institute and maintain the proposed service.
2. Public convenience and necessity require the operation by applicant of the proposed service.
3. Departure from the long- and short-haul provisions in connection with the establishment of rates by applicant between its break-bulk terminal points and in connection with its door-to-door service is justified.
4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
5. A public hearing is not necessary.

The Commission concludes that the application should be granted.

Fleet Messengers of California, Inc. doing business as Fleet Messengers Services, Inc. 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.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Fleet Messengers of California, Inc. doing business

A. 58318 - FS

as Fleet Messengers Services, Inc., a corporation, authorizing it to operate as a freight forwarder as defined in Section 220 of the Public Utilities Code 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 to do so 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.
- (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 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 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.

- (g) Applicant shall comply with the requirements of the Commission's General Order 100-Series and the safety rules administered by the California Highway Patrol if applicant intends to operate a motor vehicle under this authority.

3. Applicant in establishing and maintaining the rates authorized hereinabove, is authorized to depart from the provisions of Section 461.5 of the Public Utilities Code.

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

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

President
William J. Gerson

Vernon A. Sturgeon

Richard D. Howell

Clare J. DeWich
Commissioners

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

Certificate of public convenience and necessity authorizing applicant 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:

Hollywood/Burbank Airport
 Los Angeles International Airport
 San Francisco International Airport
 Oakland International Airport
 Sacramento Metropolitan Airport
 San Diego International 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 Airport	Redding	Ventura
Lancaster	Riverside	Visalia
Long Beach	Sacramento	Yuba City

2. The underlying carrier used by Fleet Messengers of California, 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.

Issued by California Public Utilities Commission.

Decision 89544, Application 58318.

FLEET MESSENGERS OF CALIFORNIA, INC. Original Page 2
doing business as
FLEET MESSENGERS SERVICES, INC.
(a corporation)

3. No collection or distribution service shall be provided by Fleet Messengers of California, 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.

4. Fleet Messengers of California, Inc. shall establish door-to-door rates for service between airports, including points within 25 statute miles thereof as defined in Paragraph 3 herein, on traffic moving to or from points beyond said 25-mile radius, Fleet Messengers of California, 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.

5. Fleet Messengers of California, Inc. shall not forward any shipments containing commodities prohibited by law from transportation by aircraft.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision ~~89544~~, Application 58318.