

ORIGINAL

Decision No. 91080 NOV 30 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Weber Truck and Warehouse, a California corporation, for modification of D.87551 re leasing of equipment with driver, Vernon, California.

Application No. 59152 (Filed September 21, 1979)

O P I N I O N

This is an order granting a petition for modification. Weber Truck and Warehouse (Weber) seeks modification of its highway common carrier certificate.

It has applied to exclude therefrom the authority to enter into written contracts for the leasing of equipment with driver, for the exclusive use of a vehicle, or combination of vehicles, pursuant to applicable hourly, daily, weekly, monthly, or yearly vehicle unit rates, and to cancel any unit rates, rules, and regulations applicable to such from its tariff by adding the following restriction:

- "j. Leasing of equipment with driver to a shipper(s) under written contract(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly, or yearly vehicle unit rates."

It is alleged that the cost of operating the vehicles at unit rates varies substantially with the type, size, and age of the equipment required by the contracting party, making it impracticable and uneconomical to attempt to publish rates in a tariff to meet the great variety of circumstances to satisfy the needs of the contracting party. By removing from Weber's certificate of public convenience

and necessity to operate as a highway common carrier the right to enter into written contracts at unit rates, Weber will be in a position to enter into such contracts under its highway contract carrier permit at rates at or above those established pursuant to Section 3662 of the Public Utilities Code, or, where reasonable, seek deviations from established minimum rates pursuant to Section 3666 of the Code.

Weber represents that this type of authority has already been granted by the Commission in Decision No. 87118 dated March 22, 1977 in Application No. 53306, Application of G. I. Trucking Company to modify its highway common carrier certificate.

Weber represents that its intention is to furnish the equipment at unit rates pursuant to a contract carrier permit, but that it will not hold itself out to do such for the general public, because of the variety of circumstances involved in the leasing of equipment with driver. The furnishing of such services is therefore more properly provided for under its contract carrier permit.

The petition was listed on the Commission's Daily Calendar of September 24, 1979. No protests have been received.

Applicant misconstrues the nature of the operation it desires to have restricted from its operating authority. Rather than a lease, this service is for-hire transportation performed under a written agreement for an extended period of time, notwithstanding the fact that we have referred to it by other descriptions in prior decisions. However, this type of operation is peculiarly susceptible to the contract carrier service and we will, therefore, grant the applicant's request.

After consideration, the Commission finds that:

1. Public convenience and necessity no longer require the service of the applicant's transportation involving equipment with

driver provided to a shipper(s) under written agreement(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates.

2. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

The Commission concludes that the application should be granted. However, such conclusion should not be construed as a policy determination with respect to future petitions to exempt certain transportation service from the provisions of a certificated operating authority. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. Appendix A of Decision No. 87551 dated July 6, 1977 in Application No. 56359 is hereby amended by incorporating therein First Revised Page 2 attached hereto and made a part hereof in place of Original Page 2.

2. Within sixty days after the effective date of this order and on not less than ten days' notice to the Commission and the public, Weber Truck and Warehouse shall amend its tariffs presently on file with this Commission to reflect the authority herein granted.

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

Dated NOV 30 1979, at San Francisco, California.

John E. Byrne  
President  
James L. Fitzgerald  
Richard W. Gavelle  
Charles J. Smith  
James M. Quinn  
Commissioners

- b. 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.
- c. 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.
- d. 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.
- e. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
- f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- g. Logs.
- h. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
- i. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
- j. Transportation by equipment with driver for a shipper(s) under written agreement(s) for the exclusive use of a vehicle or combination of vehicles at hourly, daily, weekly, monthly or yearly vehicle unit rates.

Issued by California Public Utilities Commission.

Amended by Decision 91080, Application 59152.