

ORIGINAL

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Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Industrial Freight System, Inc., a corporation, to remove the restriction, "Freight having a prior or subsequent movement by rail or freight forwarder," from its Certificate of Public Convenience and Necessity to operate as a highway common carrier in the transportation of property in intrastate and interstate and foreign commerce.

Application No. 58952
(Filed June 21, 1979)

O P I N I O N

By this application Industrial Freight System, Inc. (Industrial) seeks to remove a restriction in its highway common carrier certificate. Said certificate was granted in D.86104 dated July 13, 1976 in A.56402. The restriction prohibits the transportation of "Freight having a prior or subsequent movement by rail or freight forwarder," and was placed in the certificate to satisfy a protestant to the application at the time. Said certificate was registered with the Interstate Commerce Commission in Docket No. MC-120822 (Sub-No. 2).

Industrial is engaged in intrastate and interstate commerce within the State of California in the transportation of general commodities, with certain exceptions, between all points and places within the Los Angeles Basin Territory, on the one hand, and all points and places within the San Diego Territory including intermediate points and places along Interstate Highway 5 and laterally 20 statute miles on either side of said highway, on the other hand.

Notice of Industrial's filing of A.58952 was published in the Federal Register on August 6, 1979 as required by the Interstate Commerce Commission.

In support of its application Industrial alleges that the present and future public convenience and necessity require operations as a common carrier by motor vehicle in intrastate and interstate and foreign commerce of general commodities without the restriction, "Freight having a prior or subsequent movement by rail or freight forwarder," between all points described in the proposed service.

Industrial further alleges that it has operated as a highway common carrier of general commodities in intrastate and interstate and foreign commerce between points in California since 1976; that since 1976 there has been a substantial increase in population and industry in the area served by Industrial; that Industrial has received and is now receiving numerous requests from various shippers and receivers of general commodities for service which has had and/or would have had a prior or subsequent movement by rail or freight forwarder; and that with the restriction, "Freight having a prior or subsequent movement by rail or freight forwarder," in its certificate, Industrial must turn away and reject many requests from regular shippers who have freight that will have and/or has had a movement by rail or freight forwarder. Consequently Industrial must segregate and separate, with much time and effort, those general commodities which have a rail or freight forwarder move from the shipper's regular daily freight. Moreover, shippers are forced to call in another carrier to handle that freight which Industrial must refuse even though Industrial has intrastate, interstate, and foreign commerce authority. This necessarily results in duplication of effort, excessive costs to shippers, dock congestion, and loss of efficiency on the part of Industrial and shippers; it is further alleged that Industrial is informed and believes that a lack of adequate highway common carrier transportation service of the type and nature proposed to be rendered by Industrial exists. Industrial

alleges that the reasons for the placing of the restriction in the certificate in the first instance no longer exists; that said restriction is detrimental to Industrial and the shipping public; and that traffic requirements today dictate that said restriction be removed.

Industrial requests a waiver of the requirement of sending a copy of its application to the voluminous numbers of common carriers which might be in competition with Industrial in the proposed service. It points out that a copy was mailed to the California Trucking Association and to the Interstate Commerce Commission. Ex parte handling of the application is requested.

Findings of Fact

1. Publication of the filing of A.58952 was made in the Commission's Daily Calendar of June 26, 1979 and in the Federal Register Issue of August 6, 1979 as required by the Interstate Commerce Commission.
2. No protests have been received.
3. A public hearing is not necessary.
4. Industrial's balance sheet as of April 30, 1979 (attached to its application) shows a current ratio of .85, retained earnings of \$224,386, and a total stockholder's equity of \$439,490.
5. The statement of income and expenses for the four months ended April 30, 1979 shows a net income for the period of \$20,906.
6. The statement referred to in Finding 5 above also shows an operating ratio of 97.33.
7. Exhibit D to the application, "Statement of Changes in Financial Position for the Four Months Ended April 30, 1979" shows an increase in working capital of \$33,160.
8. Appendix F to the application lists Industrial's equipment as follows: 23 tractors; 15 bobtails; 51 27-foot trailers; 18 40-foot trailers; and one 45-foot trailer.
9. Industrial has the facilities, personnel, equipment, and financial ability to conduct the proposed operation.

10. Operations with the restrictions sought to be removed requires Industrial to turn away and reject freight from regular shippers. Industrial must segregate and separate the shipments from regular customers into those commodities which have a rail or freight forwarder move from the shipper's regular daily freight.

11. Industrial's regular shippers are forced to call in another carrier to handle that freight which applicant must refuse under the restriction in its present certificate.

12. Industrial should be relieved of the requirement of our rules to serve its application upon a voluminous number of carriers with whom it might compete under its proposal herein.

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

14. Public convenience and necessity require that Industrial be authorized to engage in operations in intrastate commerce as proposed in the application and also require that Industrial be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized by this decision.

Conclusions of Law

1. The restriction sought to be removed from Industrial's certificate is detrimental to Industrial and the shipping public.

2. The granting of the application will have no significant or adverse effect upon the quality of the human environment.

3. Public convenience and necessity require that the restriction be removed from Industrial's certificate.

O R D E R

IT IS ORDERED that:

1. The requirement of Rule 37 of our Rules of Practice and Procedure that the names of all common carriers with which the proposed

service is likely to compete, and a certification that a copy of the application has been served upon or mailed to each such carrier named is waived.

2. Appendix A of Decision No. 86104 dated July 13, 1976 is amended by incorporating First Revised Page 3 attached hereto in revision of Original Page 3.

3. In providing service pursuant to the authority granted by this order, applicant shall comply with 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. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and amend or 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. 80-Series.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and 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 applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

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

Dated JAN 15 1980, at San Francisco, California.

John E. Gurnea
President
William L. Stinson
Richard D. Howell
Philip J. Schuch
Samuel W. Roney
Commissioner

NOTE A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

Issued by California Public Utilities Commission.

*Amended by Decision Q1210, Application 58952.