

CAS/FS

Decision No. 91396

MAR 4 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application) Application No. 59145
of Rams Express to modify) (Filed September 17, 1979)
D 85413)

O P I N I O N

By this verified application, Ram Freightways, Inc., a California corporation (RAM), seeks modification of the highway common carrier certificate which it acquired pursuant to Decision 85413.^{1/}

Pursuant to Section 1708 of the Public Utilities Code, RAM now seeks modification of its certificate authority by excluding therefrom transportation involving the leasing of its equipment, with driver, to a shipper(s) under a written contract(s) providing for the exclusive use of carrier's vehicle, or combination of vehicles, at hourly, daily, weekly, monthly or yearly vehicle unit rates. Such transportation is now subject to the applicable hourly, daily, weekly, monthly or yearly vehicle unit rates published in RAM's tariffs. RAM proposes to cancel all such vehicle unit rates from its tariffs and to publish therein the following restriction which would exclude such transportation:

"16. 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."

^{1/} Ram Freightways, Inc. acquired the highway common carrier certificated operating rights and property formerly owned by Rams Express, its predecessor, in a transfer proceeding before this Commission in Decision 85413 dated February 3, 1976 in Application 56155.

RAM alleges that the cost of operating its 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 eliminating from its certificate authority the right to enter into written contracts with shippers utilizing vehicle unit rates, RAM asserts that it will then be in a position to enter into such transportation contracts under its highway contract carrier permit based on rates at or above those established by the Commission pursuant to Section 3662 of the Public Utilities Code, or, where reasonable, seek deviations from the established minimum rates pursuant to Section 3666 of said Code.

Applicant herein points out that this particular type of authority has already been granted by the Commission in its Decision 87118 dated March 22, 1977 in Application 53306 (Application of G.I. Trucking Company to modify its highway common carrier certificate), and confirmed in subsequent decisions granting similar authority to other certificated carriers.

According to RAM, its intention is to furnish transportation equipment at vehicle unit rates under its highway contract carrier permit authority, but it will not hold itself out to do so for the general public because of the variety of circumstances involved in the leasing of equipment with driver. For this reason, RAM contends that these transportation services can better be provided to shippers under its permit authority.

Notice of the filing of the application appeared in the Commission's Daily Calendar of September 19, 1979. No protest to the granting of the application has 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:

Public convenience and necessity no longer require applicant's transportation services involving equipment with driver when 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.

The Commission concludes that the application should be granted. However, such conclusion should not be construed as a policy determination with respect to future applications seeking to exempt certain transportation services 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 85413 dated February 3, 1976 in Application 56155 is hereby amended by incorporating therein First Revised Page 3 attached hereto and made a part hereof in place of Original Page 3.

A. 59145 - FS

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, RAM Freightways, Inc. 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 MAR 4 1980, at San Francisco, California.

John E. Byron
President
Harmon L. Stanger
Charles W. Marshall
Donald W. Smith
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

11. Furniture, as described under the heading "Furniture Group" in National Motor Freight Classification A-7, Cal. P.U.C. 1, National Motor Freight Traffic Association, Inc., Agent, on the issue date thereof, and lamp shades or reflectors and lamp standards or electric lamps and shades combined when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped.)
12. Garments on hangers.
13. Hay, fodder and straw in machine pressed bales.
14. Logs.
15. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
- *16. 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.

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

Issued by California Public Utilities Commission.

*Amended by Decision 91396, Application 59145.