

Decision No. 92882 APR 7 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ZELL G. HENDERSON, an individual )  
doing business as THE SPA HAULER, )  
for a certificate of public convenience )  
and necessity to operate as a highway )  
common carrier transporting uncrated )  
spas and hot tubs in intrastate )  
commerce, pursuant to the provisions )  
of Sections 1063 and 1064 of the )  
Public Utilities Code of the State of )  
California. )

Application No. 60001  
(Filed October 14, 1980)

O P I N I O N

Zell G. Henderson (applicant), an individual doing business as The Spa Hauler, requests a certificate of public convenience and necessity authorizing operations for the transportation of uncrated spas and hot tubs over routes serving all points within the State of California pursuant to Sections 1063 and 1064 of the Public Utilities Code.

Applicant has been issued temporary authority from the Interstate Commerce Commission under Docket Number MC-145916 TA, to transport uncrated spas and hot tubs from points in California to points in the entire continental United States. This authority, together with applicant's interstate tariff, were filed as exhibits to the application. In the event that the application is granted, applicant proposes to establish rates substantially in conformity with its interstate tariff. The service proposed will be performed on a daily basis on weekdays with on-call service on Saturdays, Sundays, and holidays.

It is alleged that public convenience and necessity favor applicant's request in that he has designed and uses an A-frame type of vehicle which has proven to be a safe and effective means of carriage of uncrated spas and hot tubs. There are no other authorized for-hire carriers with California intrastate authority that are specialized to meet the needs of the spa and hot tub industry, to the best of applicant's knowledge.

While applicant presently operates as a highway contract carrier, pursuant to a permit issued in File T-115,911, it is alleged that contract carriage of spas and hot tubs is not practical because many of these products are transported on a collect basis.

Applicant's balance sheet as of August 31, 1980 shows a net worth of \$96,719, and his income statement for the prior eight-month period shows a net profit of \$16,001 on revenues of \$241,749.

An equipment list of six trucks and tractors currently employed in interstate operations is attached to the application.

It is alleged that the approval of the application will have no adverse effect upon the environment as it involves more effective motor carrier transportation service to the public.

Notice of the filing of this application appeared on the Commission's Daily Calendar on October 17, 1980. Applicant effected service of the application upon the California Trucking Association. No protests have been received.

#### Findings of Fact

1. A public hearing is not necessary.
2. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
3. Public convenience and necessity require that applicant be authorized to engage in operations in intrastate commerce as proposed in the application.

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. The following order complies with the Commission's Energy Efficiency Plan.

Conclusion of Law

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

Applicant 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Zell G. Henderson, an individual doing business as The Spa Hauler, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

2. 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 he accepts the certificate he 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. Applicant may establish rates substantially in conformity with its interstate tariff but not less than the rates and charges prescribed by this Commission in its transition tariffs.
- (e) Applicant shall maintain his 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 April 30 of each year, an annual report of his 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, he 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 APR 7 1981, at San Francisco, California.

John E. Bryan  
President  
Donald J. ...  
Anton ...  
Priscilla C. Kren  
Commissioners

Process  
TD-3

T/afm /ALJ/ks/km /ks \*

Appendix A

ZELL G. HENDERSON  
(an individual)  
doing business as  
THE SPA HAULER

Original Page 1

Zell G. Henderson, doing business as the Spa Hauler, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of Uncrated Spas and Hot Tubs as follows:

Via the following routes:

Between the following points serving all intermediate points on or within 100 statute miles of the highways listed:

1. Crescent City and Los Angeles on U.S. Highway 101.
2. Weed and San Diego on Interstate Highway 5.
3. Alturas and the intersection of U.S. Highway 395 and Interstate Highway 15 on U.S. Highway 395 (portion in California only).

Issued by California Public Utilities Commission. ✓

Decision 92882, Application 60001.

T/afm

Appendix A

ZELL G. HENDERSON  
(an individual)  
doing business as  
THE SPA HAULER

Original Page 2

4. Los Angeles and Blythe on Interstate Highway 10.
5. San Bernardino and Baker on Interstate Highway 15.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 92882, Application 60001.