

ORIGINAL

Decision 93615 OCT 6 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of UNITED PARCEL SERVICE, INC.)
for authority to amend its)
Certificate of Public Convenience)
and Necessity authorizing common)
carrier parcel delivery service.)

Application 60673
(Filed June 22, 1981)

O P I N I O N

Applicant United Parcel Service, Inc. (UPS), an Ohio corporation, authorized to do business in California, requests that its certificate of public convenience and necessity authorizing highway common carrier service between all points in California be amended to delete the following aggregate weight restriction:

"(b) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location during a single day."

A copy of the application was served on California Trucking Association, Western Traffic Conference, California Manufacturers Association, Traffic Managers Conference, and the chambers of commerce of six large California cities. The application was noticed in the Commission's Daily Calendar of June 25, 1981. No protests to the application were received.

The application shows that UPS operates as a highway common carrier of small packages and articles within California and that it provides a similar service in interstate commerce between and within the contiguous 48 states. Its respective operating authorities limit it to transporting packages and articles weighing no more than 50 pounds or exceeding 108 inches in length and girth

combined and require that each package or article be considered a separate shipment. Its service is designed to meet the requirements of shippers who otherwise would send their small packages by parcel post.

In California UPS operates 52 terminals, employs over 11,000 persons, operates 4,200 vehicles, serves daily over 83,000 shippers, and handles daily over 700,000 packages to 340,000 consignees. It commingles interstate and intrastate shipments in its California operation.

UPS claims that the aggregate weight restriction it seeks to have deleted from its highway common carrier certificate (supra) is costly and cumbersome to enforce. (In March 1980 the Interstate Commerce Commission deleted the same aggregate weight restriction from UPS' interstate certificate.) Each month hundreds of shippers tender to UPS at one time packages weighing in the aggregate in excess of 100 pounds which must be intercepted and returned to the shippers. In the first 4 months of 1981 UPS discovered and returned to California shippers a total of 4,369 groups of packages consisting of 23,840 separate packages because the orders exceeded the 100-pound aggregate weight restriction. UPS estimates that policing the restriction costs it several hundred thousand dollars per year resulting in economic waste and leading to inconvenience and disruption of the shippers' and consignees' business.

Because of the aggregate weight restriction, and the fact that UPS frequently has 50 or more packages for delivery at one time to a single consignee location from shippers all over the United States, UPS must perform extra sorting and record keeping operations in order to assemble and ascertain the aggregate weight of all packages tendered by a single shipper for delivery to a single consignee on one day.

Even when only a few packages are to be delivered at a stop, the time a delivery driver must spend to check the aggregate weight of the shipments affects his productivity and results in extra cost which must be reflected in UPS' overall rate levels. Although a pickup driver is often able to determine if an order of just a few packages exceeds the aggregate weight limit, it is extremely difficult to do so when a substantial number of packages are being picked up at one stop.

When UPS does intercept an order which exceeds the aggregate restriction--usually at or near the consignee's location--it returns the entire order to the shipper, even if he is located at the other end of the state, and issues him a credit memo for the full transportation charges.

UPS also has difficulty in determining whether or not the 100-pound aggregate restriction is applicable under particular circumstances. UPS encounters situations where packages are consigned to different departments of a single business enterprise, e.g., the office manager in the general office, the automobile parts manager in the garage, and the sales manager in the sales department of an automobile agency. UPS delivers to the departments to which the individual packages are consigned, and must determine whether these deliveries are to different locations, or to different consignees, or both. UPS must also determine whether the 100-pound aggregate restriction is applicable when the consignee tells the driver to leave all the packages at the receiving station so that the consignee will be responsible for their distribution to various departments, which are the ultimate receivers. For example, such a situation arises frequently when UPS delivers to military installations. There are many variations of such circumstances when UPS' personnel must make difficult, on-the-spot decisions on whether the 100-pound restriction is applicable.

With the elimination in March 1980 of the aggregate weight restriction for interstate movements, California shippers are faced with the anomalous situation of being able to ship interstate by UPS to any point in the other 47 states without any aggregate restriction, but still having to split intrastate orders weighing over 100 pounds into segments not exceeding 100 pounds for tendering to UPS over successive days.

Attached to the application as Appendix A are statements of 100 individual California shippers and receivers of freight who support the removal of the aggregate weight restriction from UPS' highway common carrier certificate. The alleged problems these UPS customers face in having to abide by the aggregate weight restriction can be summarized as follows:

1. Problems of Shipper

- a. Split order shipping causes storage problems. The parts of the order held for shipping on subsequent days cause congestion and confusion in the shipping area. This disrupts operations where, in the normal course, complete orders are shipped the day they are filled.
- b. Additional paperwork is required to control the flow of the individual parts of the order, and separate packing slips must be prepared for each segment.
- c. The shipper is delayed in billing the customer because the invoice generally is not sent out until the entire order has been shipped.
- d. Cash flow problems are created for shippers because the invoice generally is not sent out until the entire order has been shipped.
- e. The shipper must maintain controls to make sure that he does not ship more than 100 pounds to a customer on one day. This policing effort has now become more complicated because packages moving interstate are no longer subject to the 100-pound aggregate restriction, whereas packages moving between points in California are still subject to this restriction.

- f. When UPS discovers that it has been tendered more than 100 pounds going to one customer on one day, which discovery most often occurs at destination, the entire group of packages is returned to the shipper. These must be reshipped in compliance with the restriction, with resulting delay, assuming that the shipper's customer has not canceled the order.
- g. Shippers in California are at a competitive disadvantage with suppliers in adjoining states who are able to ship into California by UPS without the 100-pound restriction. It has been indicated to UPS that some California consignees, in some instances, are placing their heavier weight orders with out-of-state suppliers in order to have unrestricted UPS service, rather than being subject to the split order method of shipping required of California suppliers.

2. Problems of Consignee

- a. Rather than receiving the entire order at one time, a consignee now receives portions of the order over a period of days, e.g., a 450-pound order would be received in five segments over a period of five working days. Sometimes the most needed item in the order may arrive on the last day.
- b. Consignees become confused when only a portion of the order is received, resulting in complaints to the shipper and criticism of the UPS service.
- c. Consignees in California cannot understand why they can receive by UPS heavier weight orders at one time from out-of-state suppliers, whereas, such orders placed with California suppliers must be split.

With the removal of the 100-pound aggregate restriction in California, the problems resulting from split order shipping will be eliminated and shippers will be able to ship on one day those heavier orders which they are now splitting and shipping out on successive days in segments of 100 pounds or less to their California customers. California shippers and receivers will then have available between points in California the same unrestricted service they have from UPS on interstate movements.

UPS contends that removing the restriction will not permit it to invade the domain of the general commodity truck carrier. Under its other certificate provisions it must treat each package as an individual shipment so it cannot establish rates based on the aggregate weight of a total lot as general commodity truck carriers may do. UPS expects that removal of the restriction will have little if any impact on other for-hire carriers. The removal, in effect, would permit a more efficient and economical operation for UPS and unburden California shippers from observing cumbersome and costly procedures to ensure that excess aggregate shipments are not tendered to UPS. It would place the UPS California intrastate shipper on a par with its UPS interstate shipper competitor. And, finally, the removal of the restriction would bring about more effective use of UPS' vehicles resulting in fuel conservation and energy savings.

Findings of Fact

1. UPS operates as a highway common carrier of small packages and articles within California and provides a similar service in interstate commerce between and within the contiguous 48 states.
2. Its respective operating authorities limit it to transporting packages and articles weighing no more than 50 pounds or exceeding 108 inches in length and girth combined and require that each package or article be considered a separate shipment.
3. UPS seeks to have removed from its highway common carrier certificate the aggregate weight restriction set forth in paragraph "(b)" of the certificate.

4. An exactly similar aggregate weight restriction was removed from its Interstate Commerce Commission (ICC) certificate in March, 1980.

5. Each month hundreds of California intrastate shippers tender to UPS at one time packages weighing in the aggregate in excess of 100 pounds which must be intercepted and returned to the shippers.

6. Policing the aggregate weight restriction costs UPS hundreds of thousands of dollars each year.

7. UPS customers who must ship split orders because of the aggregate weight restriction are faced with additional storage problems, additional paperwork, delayed billing, and cash flow problems.

8. UPS customers in California are at a competitive disadvantage with suppliers in adjoining states who are able to ship into California by UPS without having to abide by the aggregate weight restriction.

9. Consignees receiving split orders via UPS are inconvenienced and are apt to be confused when receiving only a portion of their order.

10. One hundred customers of UPS support UPS' request to have the Commission remove the aggregate weight restriction from UPS' certificate.

11. Public convenience and necessity require the removal of the aggregate weight restriction from UPS' certificate.

12. UPS is fit, willing, and able to conduct operations without the necessity of abiding by the aggregate weight restriction.

13. A public hearing on the application is not necessary.

14. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers. ✓

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

Conclusion of Law

The application should be granted.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to United Parcel Service, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code Section 213, between the points and over the routes listed in Appendix A.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs within 120 days after this order is effective.
- c. State in its tariffs when service will start; allow at least 10 days' notice to the Commission; and make tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 80, 100, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

- f. Comply with General Order Series 84 (collect-on-delivery shipments). If applicant elects not to transport collect-on-delivery shipments, it shall file the tariffs required by that General Order.

3. The certificate of public convenience and necessity granted in Paragraph 1 of this order shall supersede the certificate of public convenience and necessity granted by Decision (D.) 70125 and amended by D.82826 and 88800, which certificate is hereby revoked effective concurrently with the effective date of the tariff filings required by Paragraph 2(b).

This order becomes effective 30 days from today.

Dated October 6, 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I certify that this decision was approved by the above Commissioners today.

John E. Bryson



United Parcel Service, Inc., 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 general commodities as follows:

Between all points in California, via any and all available routes, subject to the following restrictions:

- a. No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.
- b. No service shall be rendered (1) in the delivery of furniture or other articles requiring the protection of quilts or pads or other special handling in order to be transported without danger of damage, or requiring unpacking or any other servicing by the carrier at point of delivery, between retail stores, their branches and warehouses, and the premises of the customers of such stores; (2) in the transfer of merchandise between retail stores and their branches and warehouses by vehicles and drivers assigned to the store on a time basis for its exclusive use.
- c. No service shall be rendered within the area comprising Los Angeles, Orange, San Bernardino, San Diego, and Ventura Counties in the transportation of packages or articles which are delivered or intended to be delivered on the same business day as tendered.

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Decision 93615, Application 60673.

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Automobiles, trucks, and buses, new and used.
3. Ordinary livestock.
4. Liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.
5. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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11. Explosives subject to U.S. Department of Transportation Regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities.
13. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.
14. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum type tank truck or trailer.

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

(END OF APPENDIX A)

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