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ARIZONA ATTORNEY GENERAL

March 22, 1961

Hon. E. T. "Eddie" Williams, Jr.
Chairman
Arizona Corporation Commission
The Capitol Annex
Phoenix, Arizona

Dear Mr. Williams:

Mr. Pickrell has given your letter of February 28, 1961, to me and asked that I prepare the answer to the question which you propounded. The question may be stated as follows:

"Is a trucking company which delivers freight from the railroad unloading site to various consignees for a transcontinental freight forwarder, a common carrier, a contract carrier, or neither; and would such a trucking company need a certificate of public convenience and necessity from the Corporation Commission prior to such an operation in Arizona"?

Art. 15, Sec. 2 of the Arizona Constitution states:

"All corporations other than municipal engaged in carrying persons or property for hire; ***** and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations."

Art. 15, Sec. 3 of the Arizona Constitution States:

"The Corporation Commission shall have full power to, and shall, prescribe ***** just and reasonable rates and charges to be made and collected, ***** and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the State, *****."

Art. 15, Sec. 10 of the Arizona Constitution states:

"***** and all ***, car, ***** pipeline corporations, for the transportation of persons, or of ***** or other property for profit, are declared to be common carriers and subject to control by law."

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| Originator | MORRIS ROZAR |
| I Concur | JOHN J. CASEY DARRELL F. SMITH |
| I Concur | CLARK KENNEDY |

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Arizona Revised Statutes, §40-601(A) states:

"3. 'Common motor carrier of property' means any person engaged in the transportation on any public highway by motor vehicle of property for compensation as a common carrier."

Arizona Revised Statutes, §40-601(B) states:

"The transportation for more than one consignor, or to more than three consignees, by any motor carrier, shall be prima facie evidence that such motor carrier is acting as a common carrier."

Arizona Revised Statutes, §40-607(A) states:

"A common motor carrier shall not operate within this state as such without first having obtained from the commission a certificate of public convenience and necessity. *****"

The Arizona statutes cited above state that all corporations other than municipal engaged in carrying property for hire are public service corporations (Art. 15, Sec. 2, Arizona Const.); that the Corporation Commission shall regulate the transaction of business of such corporation within the state (Art. 15, Sec. 3 Arizona Const.); that all car corporations for the transportation of property for profit are common carriers and subject to control by law (Art. 15, Sec. 10, Arizona Const.); and that the transportation to more than three consignees, by any motor carrier, shall be prima facie evidence that such motor carrier is acting as a common carrier (A.R.S. §40-601(B)). A common carrier shall not operate within Arizona as such without first having obtained from the Corporation Commission a certificate of public convenience and necessity (A.R.S. §40-607(A)).

The letter from the Western Freight Association, dated February 22, 1961, states that Western Freight Association would be the consignor, that Western Freight Trucking Co. would be the carrier medium, and that any number of people would or could be consignees. Therefore, Western Freight Trucking Co. would be a public service corporation and common carrier, and as such could not operate without first obtaining a certificate of public convenience and necessity from the Arizona Corporation Commission.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

MORRIS ROZAR
Assistant Attorney General

MR:lmh