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Opinion No. 63-24-L
R-27
January 24, 1963

REQUESTED BY: THE HONORABLE A.P. "JACK" BUZARD, Chairman
Corporation Commission

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Is a trucking company, which picks up air freight from airlines at the terminal and delivers to consignees, 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 operation in Arizona?

ANSWER: See body of opinion.

In answering your question we assume that the trucking company picks up freight from more than one airline and/or delivers the freight to more than three consignees.

Article 15, Section 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."

Article 15, Section 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, . . ."

Article 15, Section 10 of the Arizona Constitution states:

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

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." As Amended Laws 1960 Ch. 86, § 1; Laws 1960 Ch. 115 § 3.

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, Ariz. Const.); that the Corporation Commission shall regulate the transaction of business of such corporation within the state (Art. 15, Sec. 3, Ariz. 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, Ariz. 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)).

Therefore, it is the opinion of this office that a trucking company which picks up air freight from airlines at the terminal and delivers to consignees located throughout the State of Arizona is a common carrier and as such cannot operate without

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first obtaining a Certificate of Public Convenience and Necessity
from the Arizona Corporation Commission.


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