

**ORIGINAL**

Decision No. 63395

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
RELIABLE DELIVERY SERVICE, INC., for  
a certificate of public convenience  
and necessity authorizing removal  
of certain restrictions under its  
present certificate and extension  
of its operations as a highway  
common carrier for the transporta-  
tion of property by motor vehicles.

Application No. 40044

Donald Murchison for applicant.  
Glanz & Russell, by Arthur H. Glanz, for Auto  
Fast Freight, California Cartage Company,  
Desert Express, Victorville-Barstow  
Truck Line, San Diego Forwarding Company,  
and Constructors Transport Company, pro-  
testants.

O P I N I O N

Public hearings were held before Examiner Grant E. Syphers on February 15 and 16, March 21 and 22, 1960, at Los Angeles, April 28, 1960, at San Bernardino, May 5, 1960, at Lancaster, and July 13 and 14, 1960, at Los Angeles. On these dates evidence was adduced, and on the last-named date the matter was submitted subject to a final determination of the status of this applicant in an investigation proceeding, Case No. 6122.

By Decision No. 53751, dated September 11, 1956, in Application No. 35712, Babe Talsky, an individual, was granted a certificate of public convenience and necessity authorizing the hauling by motor truck of certain specified commodities between all points in

a designated area in the Los Angeles Basin and between Los Angeles, on the one hand, and Oceanside and San Diego, on the other, with no service to, from, or between intermediate points. By Decision No. 58742, dated July 14, 1959, in Application No. 39770, this certificate was transferred to Reliable Delivery Service, Inc., a California corporation.

By Application No. 40044, here under consideration, the corporation requests an extension of its common carrier certificate to include general commodities, with certain exceptions, and to enlarge its territory to include (1) an area generally between San Bernardino and Mojave and Kramer; (2) an area generally between San Bernardino and Victorville, Lucerne Valley, and Big Bear City; (3) an area in the vicinity of Barstow; (4) an area generally in the vicinity of Indio and Palm Springs; (5) Twentynine Palms; (6) an area generally in the vicinity of Hemet, Murrietta, and Elsinore; and (7) an area between Oceanside and San Diego and vicinity. In connection with this territory, authority is requested to serve all intermediate points and off-route points within five miles of either side of certain designated highways.

By Decision No. 59118, dated October 6, 1959, in Case No. 6122, Babe Talsky, doing business as Reliable Delivery Service and Reliable Delivery Service, Inc., was ordered to cease and desist from operating as a highway common carrier between certain designated points and also the "radial highway common carrier permit No. 19-18246 and highway contract carrier permit No. 19-324 issued to Babe Talsky, doing business as Reliable Delivery Service, and

"transferred to Reliable Delivery Service Inc., be, and they hereby are, suspended for a period of twenty days beginning at 12:01 a.m. on the second Monday following the effective date of this order."

A petition for rehearing in Case No. 6122 was denied by Decision No. 59575, dated February 1, 1960. On February 9, 1960, by Decision No. 59630, the Commission stayed the operative effect of Decision No. 59118 pending further Commission order. This stay was granted inasmuch as the respondent intended to petition the California Supreme Court for a writ of review. This petition was made, and after due proceeding the California Supreme Court, on June 28, 1961, in Case SF 20412, affirmed the Commission's order in Decision No. 59118. The applicant's petition to the Supreme Court for rehearing was denied on July 6, 1961.

By Decision No. 62385, dated August 8, 1961, in Case No. 6122, this Commission modified Decision No. 59118 supra by providing as follows:

"2. That radial highway common carrier permit No. 19-18246 and highway contract carrier permit No. 19-324 issued to Babe Talsky, doing business as Reliable Delivery Service, and transferred to Reliable Delivery Service, Inc., be and they are suspended for a period of five days beginning at 12:01 a.m. on the second Monday following the effective date of this order."

Upon this state of the record, the Commission having finally determined the proceedings in Case No. 6122, Application No. 40044 now is ready for decision.

Testimony was presented by the applicant relating to its operations, and numerous public witnesses testified on applicant's behalf. Likewise, testimony was introduced by six protestants.

Based upon all of the evidence in this matter, we now find that the applicant is willing and able to provide the proposed service; it maintains termini at Los Angeles, San Diego, and San Bernardino; and operates more than 130 pieces of equipment which are kept in satisfactory condition. While the applicant is in debt, the principal cause has been the purchase of new equipment.

We further find that public convenience and necessity require the granting of the application in the area between Oceanside and San Diego and vicinity, and in the area generally between San Bernardino and Victorville, Lucerne Valley, and Big Bear City. Public witnesses testified of their desire to have applicant's services in these areas, and while there is existing service in each of these areas the record discloses that there is only one carrier in the so-called mountain area, which includes Big Bear City, Lucerne Valley, and Victorville, and the evidence further discloses that the San Diego area is a rapidly growing one.

We further find that the application should be denied in all other areas requested.

We further find that applicant's authority should be extended to include general commodities with certain exceptions hereinafter set forth in the order which follows.

In conclusion, therefore, we find that public convenience and necessity require that the application be granted as set forth in the ensuing order. This will provide for an in lieu certificate combining all of applicant's operating authority.

Reliable Delivery Service, Inc., is hereby 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 over a particular route. 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

A public hearing having been held, and based upon the evidence therein adduced, IT IS ORDERED that:

(a) A certificate of public convenience and necessity is granted to Reliable Delivery Service, Inc., a California corporation, authorizing operations as a highway common carrier as defined by Section 213 of the Public Utilities Code, for the transportation of property between the points and over the routes as more particularly set forth in Appendices A and B attached hereto and made a part hereof.

(2) In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

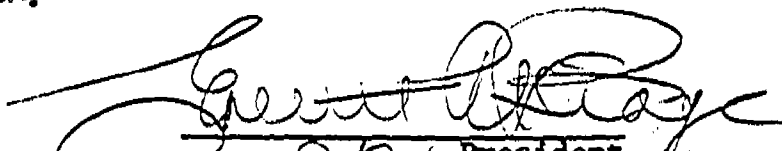


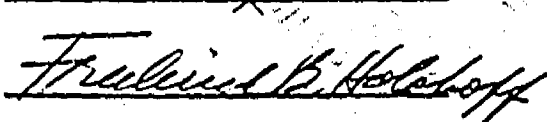
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-B. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-B, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) The certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supersedes all existing certificates of public convenience and necessity heretofore granted to or acquired by Reliable Delivery Service, Inc., which certificates are hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 2(b) hereof.

(4) In all other respects Application No. 40044 is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of March, 1962.

  
\_\_\_\_\_  
President  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Commissioners

Reliable Delivery Service, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities as follows:

1. Between all points and places in the Los Angeles Basin Area as described in Appendix B attached hereto.
2. Between all points and places on and within five miles laterally of the following highways:
  - a. U.S. Highway 101 between the southerly limits of the Los Angeles Basin Area and Chula Vista, inclusive.
  - b. State Highway 78 between its junction with U.S. Highway 101 and Escondido, inclusive.
  - c. U.S. Highway 395 between Escondido and San Diego, inclusive.
  - d. U.S. Highway 80 between San Diego and El Cajon, inclusive.
  - e. U.S. Highway 66 between San Bernardino and Victorville, inclusive, including the off-route point of Hesperia.
  - f. State Highway 18 between San Bernardino and Victorville, inclusive.
3. Through routes and rates may be established between all points and places described in subparagraph 1 and 2 a through f above.

Issued by California Public Utilities Commission.

Decision No. 63395, Application No. 40044.



Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis, when such commodities require special equipment.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

Issued by California Public Utilities Commission.

Decision No. 63395, Application No. 40044.

9. Furniture, new or used, as described under that heading in the Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof, stoves, refrigerators and lamp standards or electric lamps and shades when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped).
10. All commodities in bulk.
11. Articles of extraordinary value as set forth in Rule 3 of Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
12. Commodities injurious or contaminating to other lading.
13. Commodities which, because of size or weight, require special equipment or handling.
14. Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 63395, Application No. 40044.

APPENDIX B TO DECISION NO. 63395

The Los Angeles Basin Area includes the area embraced by the following boundary:

Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay 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 the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to the U. S. Highway No. 99; northwesterly along U. S. Highway No. 99 to and including the City of Redlands; westerly along U. S. Highway No. 99 to U. S. Highway No. 395; southerly along U. S. Highway No. 395 to State Highway No. 18; southwestery along State Highway No. 18 to U. S. Highway No. 91; westerly along U. S. Highway No. 91 to State Highway No. 55; southerly along State Highway No. 55 to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, alternate; thence northerly along an imaginary line to point of beginning.