

ORIGINAL

Decision No. 74394

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of RELIABLE DELIVERY SERVICE, INC.,
a corporation, for an extension of
its Certificate of Public Con-
venience and Necessity to operate
as a highway common carrier for the
transportation of property in intra-
state and interstate and foreign
commerce, and for an In Lieu
Certificate of Public Convenience
and Necessity therefor.

Application No. 49630
(Filed August 23, 1967)

Murchison & Stebbins by Donald
Murchison, for applicant.
Arthur H. Glanz, for Desert Express
and Victorville-Barstow Truck Line;
Karl K. Roos, for Scott Trans-
portation; protestants.

O P I N I O N

This application was heard before Examiner DeWolf at Los Angeles on April 15, 16, and 17, 1968, and was submitted on April 17, 1968, subject to the filing of late-filed Exhibit No. 12.

All protestants who had appeared stipulated with the applicant for filing of late-filed Exhibit No. 12, and withdrew their protests, on the condition that the application be amended as provided in Exhibit No. 12, and that applicant's request for authority to transport commodities in interstate and foreign

commerce within the new territory proposed to be served be withdrawn. Exhibit No. 12 which is now on file provides for amendment of the application and sets forth the commodities and territorial description requested by applicant.

Applicant is a highway common carrier presently transporting general commodities, with the usual exceptions in intrastate and interstate and foreign commerce between all points and places in the Los Angeles Basin Territory and between said Los Angeles Basin Territory and certain points in Los Angeles, Kern, San Bernardino, Riverside, San Diego, and Imperial counties as authorized in Decisions Nos. 69607, 64985, 64053, 63395, 61544, 56641, 56579, and 55157. Said authority is described in paragraphs A and B of Exhibit 12 as hereinafter set forth.

Applicant requests authority to extend such highway common carrier operations to transport general and special commodities in intrastate commerce between all points and places presently served by applicant in the Los Angeles Basin Territory and the counties above mentioned to points on Highways 66 and 91 between Victorville, Yermo, Newberry and Camp Irwin on Highway 466 between Kramer Junction and Barstow, and on U.S. Highway 395 and U.S. Highway 66 and Kramer Junction and along State Highway 138 between its junction with U.S. Highway 66 and Pearblossom, and to include points within five miles laterally along said highways. No return transportation is to be authorized except for refused, returned, or rejected shipments and natural resources from Newberry. The requested authority as described in Subhead C of Exhibit No. 12 is hereinafter set forth.

Applicant is also operating as a permitted carrier under authority from this Commission.

Applicant proposes to provide overnight service on call, Monday through Saturday, Sundays and holidays excepted, with pickups on one day being delivered in the morning of the following day; rates will be substantially in conformity with rates and charges presently published in the tariffs, to which it is a party with Western Motor Tariff Bureau, Inc., Agent, Tariff Publications.

The president of applicant testified that he is the sole stockholder and manager of applicant and has been in the transportation business since 1929. The witness described the applicant's present operations, the authority sought and proposed service, financial status, and its physical assets. Applicant introduced into evidence Exhibits Nos. 1 through 6 which are copies of its present interstate authority; Exhibit No. 8, an outline of applicant's present operations; Exhibit No. 9, Statement of Financial Condition; Exhibit No. 10, map of present and proposed routes; and Exhibit No. 11, a list of applicant's operating equipment. The equipment list describes 70 trucks, 46 tractors, 79 trailers, and dollies, fork lifts and material handling equipment. Applicant's Statement of Financial Condition shows total assets of \$613,000 and Total Operating Revenue of \$2,355,000 at closing on December 31, 1967.

Late-filed Exhibit No. 12 which is now on file pursuant to stipulation describes applicant's present and proposed new authority as follows:

- A. General commodities, except usual exceptions as described in Appendix.
- B.
 - 1. Between all points and places in the Los Angeles Basin Territory.
 - 2. Between all points and places in the Los Angeles Basin Territory, on the one hand, and all points and places on and within 10 miles laterally of the following highways, on the other hand:
 - a. U.S. Highway 6 between San Fernando and Mojave, inclusive;
 - b. U.S. Highway 466 and U.S. Highway 6 between Keene and Kramer Junction (Four Corners).
 - 3. Between all points and places in the Los Angeles Basin Territory, on the one hand and the following points and places in the counties of Los Angeles, Kern, or San Bernardino; Castaic; Pearblossom; Inyokern, China Lake, Ridgecrest; Westend; Argus; Trona; Johannesburg; Randsburg; and Red Mountain.

NOTE: For service to and from the points designated in paragraph 3 above, applicant may use the most direct or convenient highways or routes, serving no intermediate points except those designated in paragraph 2 above.

- 4. 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 Territory and Chula Vista, inclusive;
 - b. State Highway 78 between its junctions 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;
- g. U.S. Highway 99 between the easterly limits of the Los Angeles Basin Territory and Indio, inclusive;
- h. State Highway 111 between its intersection with U.S. Highway 99 near Whitewater and Durmid, inclusive;
- i. Unnumbered highway between its intersection with U.S. Highway 99 near Whitewater and Twenty-nine Palms, inclusive, including the off-route point of Desert Hot Springs, but not including the U.S. Marine Corps Base near Twenty-nine Palms;

NOTE 1: Through routes and rates may be established between all points and places described in paragraph 1 and subparagraphs 4a through i, inclusive.

NOTE 2. No interstate authority with respect to service on the new routes set forth in subparagraphs 4g, h, and i above, is to be authorized.

- 5. Between all points and places in Imperial County.
- 6. Between all points and places in Imperial County, on the one hand, and, on the other hand, the Los Angeles Basin Territory.
- 7. Cement, Lime or Plaster, as listed under that heading in Items Nos. 21660 through 21750 of the Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County on the one hand, and Riverside, Crestmore and Colton on the other hand.
- 8. Conduits, Drain Tile, Sewer Pipe or Related Articles, Clay, Concrete or Earthen, as listed under that heading in Items Nos. 28980 through 29210 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County, on the one hand, and Corona, on the other hand.

9. Cotton, as listed under the heading in Items Nos. 31130, 31170, 31190 through 32260 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County on the one hand and points within 25 miles of Blythe, Coachella and Hinkley, all on the other hand.
10. Save and except as otherwise herein provided, the authorities hereinabove set forth in paragraphs 6, 7, 8, and 9 do not include the right to render service to, from or between intermediate points.
11. Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs 6, 7, 8, and 9.
12. Applicant may use U.S. Highway 395 between Escondido and Temecula as a route traversed but not served.
13. Applicant may use U.S. Highway 99 between Coachella and the Imperial County Line as a route traversed but not served.
14. Lateral miles referred to above are statute miles of 5,280 feet each measured in a straight line without regard to terrain features.

C. From points and places in paragraph B above to:

Points on and within 5 miles laterally of U.S. Highways 66 and 91 (including old U.S. Highway 66) between Victorville, Yermo and Newberry, inclusive, including the off-route point of Camp Irwin.

Points on and within 5 miles laterally of U.S. Highway 466 between Kramer Junction (Four Corners) and Barstow, inclusive.

Points on and within 5 miles laterally of U.S. Highway 395 between its intersection at U.S. Highway 66 and Kramer Junction (Four Corners) inclusive, (except as otherwise authorized).

Points on and within 5 miles laterally of State Highway 138 between its junction with U.S. Highway 66 and Pearblossom.

NOTE 1: No transportation for compensation on return is authorized, except for refused, returned or rejected shipments.

NOTE 2: Applicant is authorized to transport commodities produced from natural resources from Newberry to all presently authorized points.

NOTE 3: No interstate authority with respect to service on the new routes set forth in subparagraph C above is to be authorized.

Eight public shipper witnesses testified in support of the application that they have used for a period of from one to five years and are now using the service of applicant; that the service has been rendered with efficiency, has been very satisfactory, and that the proposed changes and new area service would be of great benefit to them. The main problem described by the applicant and shippers is that frequently they have occasion to combine shipments which require split deliveries where part of the deliveries are within applicant's presently authorized service area as a common carrier, and part of the deliveries are outside the area, all of which places a rate burden upon applicant's regular shipper customers. The shippers further testified that applicant provides special equipment; usually makes early pickups; the proposed new service is needed to enable the shippers to get next-day delivery and reduce dock congestion and to enable applicant to modernize its routes and operations in the proposed extended area.

Applicant furnished the names and addresses of 18 additional shipper witnesses who had been interviewed and requested to appear and testify in support of the application and outline their shipping problems, and stated that they would all support

the need for this expansion of applicant's territory and would use the new service.

Protestants withdrew and did not offer any evidence.

Upon consideration of the evidence the Commission finds that:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the transportation service hereinafter authorized.

2. The shippers of those certain commodities described in the testimony will be afforded shipping advantages, reduced dock congestion, and more efficient service by extension of applicant's authority over the routes herein authorized.

3. The extension of applicant's territory as requested will not adversely affect other carriers or result in an impairment of their existing services.

4. The population, business, and industrial growth in the Los Angeles Basin Territory in recent years has been extensive, and this has caused expansion of traffic and transportation from the Los Angeles Basin Territory to the proposed new territory so that the extension of applicant's routes will enable applicant to render more efficient service.

5. It is necessary to authorize applicant to provide the proposed transportation service in order to enable shippers to obtain improved service on split deliveries to the new territory.

6. Public convenience and necessity require that applicant be authorized to transport the special commodities on the new routes, as more particularly set forth in the ensuing order.

7. Public convenience and necessity require that applicant be authorized to engage in interstate or foreign commerce within limits which do not exceed the scope of the intrastate operations now being conducted or previously authorized herein.

8. Public convenience and necessity do not require that applicant be authorized to engage in interstate or foreign commerce in the new territory herein authorized.

The Commission concludes that the application as amended should be granted as specified in the ensuing order.

As applicant has heretofore been authorized to revise its routes on several occasions, it is deemed advisable to restate its certificate in order to clarify its operating authority. Accordingly, a new certificate will be issued which will include all of the applicant's present authority, and the new authority herein authorized.

Reliable Delivery Service, Inc., a corporation, 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Reliable Delivery Service, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A, B, and C, attached hereto and hereby made a part hereof.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all the certificates of public convenience and necessity granted by Decisions Nos. 69607, 64985, 64053, 63395, 61544, 56641, 56579, and 55157, which certificates are superseded effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and 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 service herein authorized.
- (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-A.
- (e) Applicant shall maintain its 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 March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 16th day of JULY, 1968.

William Symons Jr.
President

William C. Barnard

Augusta

Robert P. Monussey
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

RELIABLE DELIVERY SERVICE, INC.,
(a corporation)

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

BETWEEN:

1. All points and places in the Los Angeles Basin Territory described in Appendix C.
2. All points and places in the Los Angeles Basin Territory described in Appendix C, on the one hand, and all points and places on and within ten miles laterally of the following highways, on the other hand:
 - a. U.S. Highway 6 between San Fernando and Mojave, inclusive;
 - b. U.S. Highway 466 and U.S. Highway 6 between Keene and Kramer Junction (Four Corners).
3. All points and places in the Los Angeles Basin Territory, on the one hand and the following points and places in the counties of Los Angeles, Kern, or San Bernardino: Castaic; Pearblossom; Inyokern, China Lake, Ridgecrest; Westend; Argus; Trona; Johannesburg; Randsburg; and Red Mountain.

NOTE: For service to and from the points designated in paragraph 3 above, applicant may use the most direct or convenient highways or routes, serving no intermediate points except those designated in paragraph 2 above.

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RELIABLE DELIVERY SERVICE, INC.,
(a corporation)

(continued)

4. 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 Territory and Chula Vista, inclusive;
 - b. State Highway 78 between its junctions 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;
 - g. U.S. Highway 99 between the easterly limits of the Los Angeles Basin Territory and Indio, inclusive;
 - h. State Highway 111 between its intersection with U.S. Highway 99 near Whitewater and Durmid, inclusive;
 - i. Unnumbered highway between its intersection with U.S. Highway 99 near Whitewater and Twentynine Palms, inclusive, including the off-route point of Desert Hot Springs, but not including the U.S. Marine Corps Base near Twentynine Palms.

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RELIABLE DELIVERY SERVICE, INC.,
(a corporation)

(continued)

NOTE 1: Through routes and rates may be established between all points and places described in paragraph 1 and subparagraphs 4a through i, inclusive.

5. All points and places in Imperial County.
6. All points and places in Imperial County, on the one hand, and, on the other hand, the Los Angeles Basin Territory.
7. Cement, Lime or Plaster, as listed under that heading in Items Nos. 21660 through 21750 of the Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County on the one hand, and Riverside, Crestmore and Colton on the other hand.
8. Conduits, Drain Tile, Sewer Pipe or Related Articles, Clay, Concrete, or Earthen, as listed under that heading in Items Nos. 28980 through 29210 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County, on the one hand, and Corona, on the other hand.

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RELIABLE DELIVERY SERVICE, INC.,
(a corporation)

(continued)

9. Cotton, as listed under the heading in Items Nos. 31130, 31170, 31190 through 32260 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof, between all points and places in Imperial County on the one hand and points within 25 miles of Blythe, Coachella and Hinkley, all on the other hand.
10. Save and except as otherwise herein provided, the authorities hereinabove set forth in paragraphs 6, 7, 8, and 9 do not include the right to render service to, from or between intermediate points.
11. Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs 6, 7, 8, and 9.
12. Applicant may use U.S. Highway 395 between Escondido and Temecula as a route traversed but not served.
13. Applicant may use U.S. Highway 99 between Coachella and the Imperial County line as a route traversed but not served.
14. Lateral miles referred to above are statute miles of 5,280 feet each measured in a straight line without regard to terrain features.

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RELIABLE DELIVERY SERVICE, INC.,
(a corporation)

(continued)

From points and places in paragraphs 1 through 14 above to:

15. Points on and within five miles laterally of U.S. Highways 66 and 91 (including old U.S. Highway 66) between Victorville, Yermo and Newberry, inclusive, including the off-route point of Camp Irwin.
16. Points on and within five miles laterally of U.S. Highway 466 between Kramer Junction (Four Corners) and Barstow, inclusive.
17. Points on and within five miles laterally of U.S. Highway 395 between its intersection at U.S. Highway 66 and Kramer Junction (Four Corners) inclusive, (except as otherwise authorized).
18. Points on and within five miles laterally of State Highway 138 between its junction with U.S. Highway 66 and Pearblossom.

NOTE 1: No transportation for compensation on return is authorized in paragraphs 15, 16, 17, and 18 above, except for refused, returned or rejected shipments.

NOTE 2: Applicant is authorized to transport commodities produced from natural resources from Newberry to all presently authorized points.

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RELIABLE DELIVERY SERVICE, INC.
(a corporation)

Applicant shall not transport any shipments of:

1. Used household 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, 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 (except as to service between points set forth in paragraphs 1, 2, and 3 of Appendix A.
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.

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(a corporation)
(continued)

7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
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.

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LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard 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 U. S. Highway No. 99; northwesterly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.