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Decision No. 79033

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SAME DAY DELIVERY SERVICE, a corpo-
ration, to transfer and of AUTO FAST
FREIGHT, INC., a corporation, to
acquire a portion of the Certificate
of Public Convenience and Necessity
and certain property of SAME DAY
DELIVERY SERVICE, INC.

Application No. 52718
(Filed June 25, 1971)

In the Matter of the Application of
SAME DAY DELIVERY SERVICE, a corpo-
ration, to transfer, and LAW EXPRESS,
INC., a corporation, to acquire a
portion of the Certificate of Public
Convenience and Necessity and cer-
tain property of SAME DAY DELIVERY
SERVICE, INC.

Application No. 52719
(Filed June 25, 1971)

O P I N I O N

Same Day Delivery Service, a corporation, is presently authorized to transport general commodities as a highway common carrier between points within the Los Angeles Basin Territory, between points within the San Diego Territory, and between points in the Los Angeles Basin Territory, on the one hand, and points in the San Diego Territory, on the other hand. By the above applications it requests authority to sell and transfer that portion of the certificate authorizing operations within the Los Angeles Basin Territory to Law Express, Inc. and the remaining portion of the certificated authority to Auto Fast Freight, Inc.

The certificate was granted by Decision No. 60610, dated August 23, 1960, in Application No. 42134, as amended by Decision No. 63813, dated June 12, 1962, in Application No. 43402, and Decision No. 74082, dated May 7, 1968, in Application No. 48547. The agreed cash consideration for the transfer to Law Express, Inc. is \$50,000. The agreed cash consideration for the transfer to Auto Fast Freight, Inc., which also includes 13 units of equipment, is \$80,000. Applicant Law Express, Inc. is presently operating as a public utility warehouseman in the City of Vernon and as a permitted carrier. It operates 18 units of equipment and as of December 31, 1970, indicated a net worth in the amount of \$9,717. Applicant Auto Fast Freight, Inc. is presently operating as a certificated and permitted carrier. Its certificated authority was granted by Decision No. 71674, dated December 6, 1966, in Application No. 46314, as amended by Decisions Nos. 71703, 74082 and 60185. It owns and operates 42 units of equipment and as of March 31, 1971, indicated a net worth in the amount of \$74,049.

After consideration the Commission finds that the proposed transfers would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfers are consummated, the revocation of the certificates presently held by Same Day Delivery Service and Auto Fast Freight, Inc., and the issuance of certificates in appendix form to Law Express, Inc. and Auto Fast Freight, Inc.

Auto Fast Freight, Inc. and Law Express, Inc. are 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. On or before May 1, 1972, Same Day Delivery Service may sell and transfer, and Auto Fast Freight, Inc. and Law Express, Inc. may purchase and acquire, the operative rights and property referred to in the applications.
2. Within thirty days after the consummation of the transfers herein authorized, purchasers shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfers.

3. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfers herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authorities granted by this decision.

4. On or before the end of the third month after the consummation of the transfers as herein authorized, purchasers shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfers.

5. In the event the transfers authorized in paragraph 1 hereof are consummated, certificates of public convenience and necessity are granted to Auto Fast Freight, Inc., a corporation, and

Law Express, Inc., a corporation, authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A, B, C, D, E and F attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 60610, dated August 23, 1960, in Application No. 42134, as amended by Decisions Nos. 63813 and 74082, and the certificate of public convenience and necessity granted by Decision No. 71674, dated December 6, 1966, in Application No. 46314, as amended by Decisions Nos. 71703, 74082 and 60185, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfers herein authorized are consummated, purchasers shall file written acceptances of the certificates herein granted. Purchasers are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they 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-F.

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8. Purchasers shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Purchasers shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchasers elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 31st
day of AUGUST, 1971.

[Signature]
Chairman
William J. [Signature]
[Signature]
Vernon L. Stinger
[Signature]
Commissioners

Auto Fast Freight, Inc., a corporation, 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:

1. Between all points and places within the Los Angeles Basin Territory as described in Appendix B attached hereto.
2. Between all points and places within the San Diego Territory as described in Appendix C attached hereto.
3. Between said Los Angeles Basin Territory and said San Diego Territory, on the one hand, and all intermediate points on or within ten miles laterally of U. S. Highways 101 and 395, on the other hand.
4. Between said Los Angeles Basin Territory, on the one hand, and, on the other, Crestline, Lake Arrowhead and Big Bear Lake and intermediate and off-route points within three miles laterally of the highways involved on routes as hereinafter described, subject to the following condition and restriction:

When operating over the alternate route via Victorville and Lucerne Valley applicant shall not render service to nor from any point intermediate of Lucerne Valley and its terminus in the City of San Bernardino.

(a) San Bernardino-Lake Arrowhead:

Between San Bernardino and Lake Arrowhead, in the County of San Bernardino, State of California, over State Highway 18. Intermediate points served include Arrowhead Springs Hotel, Old Waterman Canyon Road, Crestline, Cedar Pines Park, Camp Secley, Lake Gregory, Club San Moritz, Arrowhead Highlands, Pinecrest, Twin Peaks, Alpine, Alpine Club, Blue Jay, Lake Arrowhead Village, Cedar Glenn, Lake Brook Park, Arrowhead Manor, Los Angeles Boy Scout Camp, and North Shore Lake Arrowhead.

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(b) San Bernardino-Big Bear Lake via Waterman Canyon:

San Bernardino to Big Bear Lake over State Highway 18 (Rim of the World Drive). Intermediate points served include Sky Forest, Running Springs, Arrowbear Lake, Green Valley, Los Angeles Y.M.C.A. Camp, Snow Valley, Big Bear Dam, Fawnskin, Fawnskin Public Camp, Big Bear City, Big Bear Park, Moonridge and Big Bear Lake.

(c) San Bernardino-Big Bear Lake via City Creek Road:

San Bernardino to Big Bear Lake via City Creek Highway and Rim of the World Drive. Intermediate points served include City Creek Bridge, Dutch John's Barrel Springs, and Smiley Park.

(d) San Bernardino-Big Bear Lake via Victorville:

Alternate route from San Bernardino to Big Bear Lake via Cahon Pass, Victorville, Lucerne Valley, and Box S. Ranch. This route to be used only during such times as State Highway 18, the Rim of the World Drive, is impassable.

5. Between said Los Angeles Basin Territory and San Bernardino, on the one hand, and all points on State Highway 111 between Palm Springs and Indio, including Palm Springs, and all points in the Coachella Valley Territory as described in Appendix D attached hereto, on the other hand. Such authority does not include the right to render service to, from or between intermediate points.

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 Item No. 5 of Minimum Rate Tariff No. 4-B.
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.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers.

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4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semiplastic 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.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

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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 shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX B)

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SAN DIEGO TERRITORY consists of the area bounded as follows: Beginning at the junction of Torrey Pines Road and U.S. Highway 101 (4 miles north of La Jolla); thence easterly to Miramar; thence southeasterly to Lakeside, located on State Highway 67; thence southerly to Bostonia; thence southeasterly to Jamul, located on State Highway 94; thence due south to the International Boundary; thence westerly along the International Boundary to the Pacific Ocean; thence along the Pacific coast to a point due west of the point of beginning; thence due east to the point of beginning.

(END OF APPENDIX C)

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COACHELLA VALLEY TERRITORY is defined as the area lying between the little San Bernardino Mountains and Cottonwood Mountain, on the one hand, and the San Jacinto and Santa Rosa Mountains, on the other hand; and bounded on the northwest by Edom on U.S. Highway No. 99 and Indian Wells on State Highway No. 111, and on the southeast by the Riverside Imperial County line on U.S. Highway No. 99 and Southern Pacific Company station of Mortmar on State Highway No. 111.

(END OF APPENDIX D)

Issued by California Public Utilities Commission.

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Law Express, Inc., a corporation, 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 between all points and places in the Los Angeles Basin Territory as described in Appendix F attached hereto.

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 Item No. 5 of Minimum Rate Tariff 4-B.
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.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

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6. Commodities when transported in bulk in dump trucks or in hepper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX E)

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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 shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX F)

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