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ORIGINAL

Decision No. 79637

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LOS ANGELES CITY  
EXPRESS, INC., a California  
corporation to purchase and of  
Edmour L. Pelletier, an individual  
doing business as Idyllwild Freight  
Line, to sell certificate of public  
convenience and necessity to operate  
as a highway common carrier.

Application No. 52985  
(Filed November 9, 1971)

O P I N I O N

By this application, Los Angeles City Express, Inc., a California corporation, 2300 East 48th Street, Los Angeles, California, hereinafter termed the Buyer, requests authority to purchase, and Edmour L. Pelletier, an individual doing business as Idyllwild Freight Line of Hemet, California, hereinafter termed the Seller, requests authority to sell to the Buyer the certificate of public convenience and necessity issued to Seller by Decision No. 71715, dated December 20, 1966, in Application No. 48599.

The Buyer alleges it has filed a certified copy of its articles of incorporation with a previous application; a copy of a purchase and sale agreement dated September 25, 1971, is attached to the application and states that the total purchase price for said rights is \$2,000, \$100 of which has been paid.

The Buyer proposes to seek registration of said certificate with the Interstate Commerce Commission to authorize operations in interstate or foreign commerce co-extensive with said intrastate certificate, in lieu of the present certificate of exemption held by Seller.

The Buyer is the owner and holder of a certificate of public convenience and necessity issued by this Commission in the following decisions:

<u>Decision Numbers</u>	<u>Dated</u>	<u>Application Numbers</u>
78463	March 23, 1971	52064
74082	May 7, 1968	48547
73964	April 9, 1968	42580
62102	June 6, 1961	42580
61085	November 22, 1960	42580
60972	November 1, 1960	42580

The Buyer also operates as a permitted radial highway common carrier, a highway contract carrier and a household goods carrier pursuant to appropriate permits issued by this Commission.

Buyer additionally operates in interstate or foreign commerce co-extensive with its operations in intrastate commerce pursuant to a certificate of registration with the Interstate Commerce Commission under the provisions of Section 206(a)(6) of the Interstate Commerce Act, as amended, and of record with said Commission in its Docket No. MC-97977 (Sub-No. 4). Seller also operates under a certificate of exemption issued by the Interstate Commerce Commission pursuant to Section 204(a)(4a) of Part II of the Interstate Commerce Act, exempting Seller from compliance with the provisions of Part II of said Act in respect of transportation in interstate or foreign commerce specifically described in the appendix of said exemption which is of record with the Interstate Commerce Commission in Docket No. MC-117368 (Sub 2 EX).

Buyer and Seller allege that Seller desires to retire from the business of conducting his said highway common carrier operations and Buyer desires to continue the said operations of Seller by acquiring his said operating rights and thereafter conduct such operations in satisfaction of the public need and convenience.

The Buyer has attached a copy of its balance sheet as of March 31, 1971, and a statement of income and retained earnings for the three-month period ending March 31, 1971. Buyer alleges that it is financially capable of consummating the transaction and performing said operations. Buyer alleges it owns and operates a fleet of over 100 units of motor vehicle equipment of the types normally operated by highway common carriers of general commodities, including local pick up and delivery trucks, line haul tractors, van and flat-bed trailers and semi-trailers, converter gears, dollies, and power loading and unloading equipment, and that such equipment is not now being utilized to capacity and is available for use in the proposed service.

Seller alleges he is not a party to any through routes or joint rates or fares with any other carrier, and is conducting operations in both intrastate and interstate commerce, and that there has been no suspension or discontinuance of service during the preceding three years.

Buyer proposes to adopt or become a party to Seller's Local Freight Tariff No. 2, Cal. P.U.C. No. 3.

The parties allege that the transfer will assure a continuation of highway common carrier services to the public in a sparsely populated portion of the State and allow Seller to retire from the obligation of continuing his highway common carrier operations, and that it will not effect the operations of any other carrier.

The Transportation Division of the Public Utilities Commission staff has reviewed the application and has recommended that the scope of the operating authority to be issued to the Buyer be restated in appendix form and include all of its present operating authority and that all previous operating authority of the parties be revoked.

A certificate dated November 4, 1971 is on file with the application stating that a true copy of the application has been served upon all known competitive carriers and to the California Trucking Association at its Burlingame and Los Angeles offices by forwarding a copy thereof, via first class mail, to each of them.

No protest or objections to the transfer have been received in opposition to the application.

After consideration, the Commission finds that public convenience and necessity require the subject operations in intrastate and interstate or foreign commerce and that the proposed transfer would not be adverse to the public interest, and concludes that it should be authorized. A public hearing is not deemed necessary.

The order which follows will provide, in the event the transfer is consummated, for the revocation of the certificate authorized to be transferred herein, presently held by Edmour L. Pelletier, an individual doing business as Idyllwild Freight Line, and the issuance of a new certificate in appendix form to Los Angeles City Express, Inc., which will include all of its operating authority.

Los Angeles City Express, 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, these rights extend to the holder a full or partial monopoly of a class of business. 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 June 1, 1972, Edmour L. Pelletier, an individual, doing business as Idyllwild Freight Line, may sell and transfer, and Los Angeles City Express, Inc., may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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 transfer.
3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its 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 transfer 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 authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser 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 transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Los Angeles City Express, Inc., 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 and B, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificates of public convenience and necessity granted by decisions described above on pages 1 and 2 and all previous certificates of Buyer and Seller are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

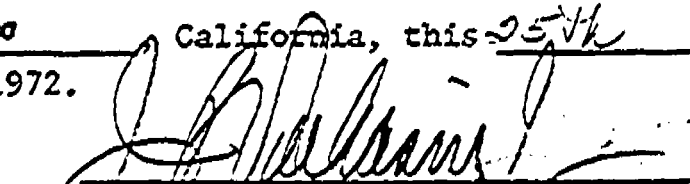

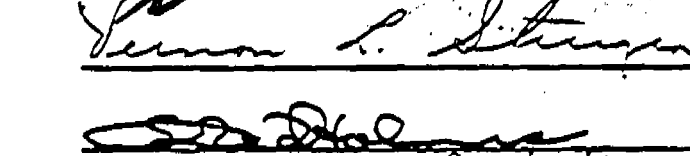
7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. Purchaser is placed on notice that, if it accepts such certificate it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. Purchaser 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.

9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it 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 25<sup>th</sup> day of JANUARY, 1972.

  
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Chairman  
  
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Vernon L. Stinson  
  
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Commissioners

Los Angeles City 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:

1. BETWEEN all points and places within the Los Angeles Basin Territory as described in Appendix B attached hereto.
2. BETWEEN the Los Angeles Basin Territory, on the one hand, and, on the other hand, all points and places located on and along and within ten miles laterally of the following routes:
  - a. Interstate Highway 10 between Redlands and Indio, inclusive.
  - b. U. S. Highway 60 between Riverside and Beaumont, inclusive.
  - c. State Highway 111 between the junction with Interstate Highway 10 near Whitewater and Mecca, inclusive.
  - d. State Highway 62 (known as Twentynine Palms Highway) between the junction with Interstate Highway 10 near Whitewater and Twentynine Palms, inclusive.
  - e. State Highway 74 between Hemet and Pinyon Flats, inclusive.
  - f. Riverside County Highway R-1 between the junction of said highway with State Highway 74 and Twin Pines Ranch (approximately 8 miles south of Banning), inclusive.
  - g. State Highway 71 between the junction of said highway with State Highway 74 and Aguanga.
3. BETWEEN Los Angeles Basin Territory, on the one hand, and, on the other hand, all points and places located on and along the route from said territory via Interstate Highway 5 and State Highway 14 to and including Solemint, and all points and places located within ten miles laterally of said route with the exception of those points and places northerly of Solemint.

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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.
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; southwestly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwestly 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; southwestly 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.

(END OF APPENDIX B)

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