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**ORIGINAL**

Decision No. 81854

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DESERT BELT TRANSPORTATION CO., a  
California corporation, for authority  
to transfer operating rights to  
WESTERN STATES CONSTRUCTION, INC., a  
California corporation; and for  
WESTERN STATES CONSTRUCTION, INC. to  
issue an installment note to DESERT  
BELT TRANSPORTATION CO.

Application No. 54122  
(Filed June 25, 1973)

O P I N I O N

Desert Belt Transportation Co. (Desert Belt), a California corporation, requests authority to sell and transfer, and Western States Construction, Inc. (Western States), a California corporation, requests authority to purchase and acquire, the certificate of public convenience and necessity which authorizes operations as a highway common carrier, as well as certain motor vehicles and other assets. Applicant purchaser also requests authority to execute a promissory note in the amount of \$45,000 payable to applicant Desert Belt in the amount of \$1,226 per month for three years, including principal and interest at the rate of 6-1/2 percent per annum on the unpaid principal at which time the balance is due and payable.

The certificate was granted by Decision No. 55251 dated July 9, 1957 in Application No. 36465 and transferred to Desert Belt by Decision No. 74257 dated June 18, 1968 in Application No. 50250. The operative rights authorize the transportation of agricultural machinery products and related commodities between points in the Los Angeles Territory, on the one hand, and the Coachella Valley Territory, on the other hand.

The transfer includes some 17 pieces of equipment as well as goodwill. Western States, a permitted carrier, proposes to retain for a period of time after the transfer several of the employees of Desert Belt. Purchaser had total assets of \$281,821.97 and retained earnings of \$38,564, as of December 31, 1972.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the money, property, or labor to be procured or paid for by the indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Western States has the ability, including the financial ability, to conduct the highway common carrier operation which it proposes to acquire from Desert Belt. There were no protests to the application and a public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Desert Belt and the issuance of a certificate in appendix form to Western States.

The certificate will be restated, but such restatement will not change or broaden the authority transferred.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

Western States Construction, Inc. is 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. 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 30, 1974, Desert Belt Transportation Co. may sell and transfer the operative rights and property referred to in the application to Western States Construction, Inc.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the 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 transfer. 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-Series. Failure to comply with the provisions of General Order No. 80-Series 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 transfer the 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 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Western States Construction, 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 55251 and transferred to Desert Belt by Decision No. 74257 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with 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.

10. Whenever Western States Construction, Inc. engages other carriers for the transportation of property of Western States Construction, Inc. and/or Western United Builders, Inc., or customers or suppliers of said corporation, Western States Construction, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Western States Construction, Inc.'s tariffs on file with this Commission.

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11. On or after the effective date hereof and on or before June 30, 1974, for the purposes specified in this matter, purchaser may issue a note in the principal amount of not exceeding \$45,000, and may execute and deliver an encumbering document, which documents shall be in substantially the same form as those attached to the application.

The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

The authority granted by this order to issue an evidence of indebtedness and to execute and deliver an encumbering document will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$90. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup>  
day of SEPTEMBER, 1973.

William J. ... President  
...  
...  
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Western States Construction, Inc., 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:

1. AGRICULTURAL IMPLEMENTS, HAND, OR PARTS NAMED, as listed under that heading in Items Nos. 2710 through 3191 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
2. AGRICULTURAL IMPLEMENTS, OTHER THAN HAND, as listed under that heading in Items Nos. 3205 through 4051 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
3. AGRICULTURAL IMPLEMENT PARTS, OTHER THAN HAND, as listed under that heading in Items Nos. 4065 through 4611 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
4. BASKETS OR HAMPERS, as listed under that heading in Items Nos. 10320 through 10670 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
5. BOXES OR CRATES, INCLUDING FIBREBOARD, PAPER OR PULP-BOARD BOTTLES OR CANS, as listed under that heading in Items Nos. 13845 through 14646 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
6. FERTILIZERS, as listed under that heading in Items Nos. 535, 540 and 550 of Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, Cal.P.U.C. No. 193, J. P. Haynes, Agent, on the issue date thereof in Supplement No. 34 thereto.
7. FOODSTUFFS, BEVERAGES OR BEVERAGE PREPARATIONS, NOT NAMED IN OTHER MORE SPECIFIC GROUPS, VIZ.:

Fruits, fresh, cold pack  
Vegetables, fresh or green, cold pack

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8. FRUITS OR VEGETABLES, DEHYDRATED, DRIED OR EVAPORATED, as listed under that heading in Items Nos. 41565 through 41790 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
9. FRUITS, FRESH (NOT COLD PACK NOR FROZEN), OR VEGETABLES, FRESH OR GREEN (NOT COLD PACK NOR FROZEN), as listed under that heading in Items Nos. 41815 through 42220 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
10. INSECTICIDES OR FUNGICIDES, AGRICULTURAL, as listed under that heading in Items Nos. 52960 through 53110 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
11. MACHINERY, OR MACHINES, OR PARTS NAMED, as listed under that heading in Items Nos. 58470 through 67391 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
12. NURSERY STOCK, as listed under that heading in Items Nos. 70860 through 70940 of Western Classification No. 76, George H. Dumas, Agent, on the issue date thereof.
13. MISCELLANEOUS COMMODITIES, VIZ.:

Flowers, fresh

BETWEEN all points in the Los Angeles Territory, as described in Note A, on the one hand, and all points in the Coachella Valley Territory, as described in Note B, on the other hand.

Issued by California Public Utilities Commission.

Decision No. 81854, Application No. 54122.

## Note A

## LOS ANGELES TERRITORY

The Los Angeles Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the City of San Fernando); thence southeasterly along State Highway 118 to and including the City of Pasadena; thence easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street, south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boulevard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

## Note B

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 Interstate Highway 10 and Indian Wells on State Highway 111, and on the southeast by the Riverside-Imperial County line on State Highway 86 and Southern Pacific Company station of Mortmar on State Highway 111.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 81854, Application No. 54122.



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Decision No. 82836

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
DESERT BELT TRANSPORTATION CO., a )  
California corporation, for authority )  
to transfer operating rights to )  
WESTERN STATES CONSTRUCTION, INC., a ) Application No. 54122  
California corporation; and for )  
WESTERN STATES CONSTRUCTION, INC. to )  
issue an installment note to DESERT )  
BELT TRANSPORTATION CO. )

OPINION AND ORDER RESCINDING DECISION NO. 81854

By their joint application in the above proceeding, Desert Belt Transportation Co., requested authorization to sell and transfer, and Western States Construction, Inc., requested authority to acquire, a certificate of public convenience and necessity as a highway common carrier and certain property.

The transfer was authorized by Decision No. 81854, dated September 12, 1973, such authorization to expire June 30, 1974. The Commission's records do not show that the transfer has been consummated.

We are informed by letter received April 15, 1974 from Desert Belt Transportation Co., that it no longer desires to transfer its authority to Western States Construction, Inc., and requests that the order be cancelled.

In the matter of a joint application, where one of the parties withdraws, the authorization granted is of no effect, as neither party can complete the transaction without the agreement of the other.

After consideration the Commission finds that the authority granted by Decision No. 81854, dated September 12, 1973, in Application No. 54122, should be rescinded. A public hearing

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is not necessary; therefore,

IT IS ORDERED that Decision No. 81854, supra is hereby vacated on the date hereof.

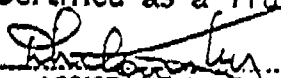
Dated at Los Angeles, California, this 7th day of May, 1974.

WILLIAM SYMONS, JR.  
THOMAS MORAN  
D. W. HOLMES  
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner J. P. Vekarin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Certified as a True Copy.

  
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ASSISTANT SECRETARY  
PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA