

ORIGINAL

Decision No. 82475

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of VIKING DELIVERY
SERVICE, INC., to purchase and
of VICTORY TRANSPORTATION SERVICES,
INC., to sell a certain certificate
of public convenience and necessity.

Application No. 54481
(Filed December 6, 1973)

O P I N I O N

Victory Transportation Service, Inc., a wholly owned subsidiary of Alltrans, Incorporated, requests authority to sell and transfer, and Viking Delivery Service, Inc., a California corporation, requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 77270 dated May 22, 1970 in Application No. 51807 and authorizes the transportation of general commodities, with certain exceptions, between points from Sacramento, on the north, to San Diego, including points within the San Francisco, the Los Angeles Basin, and the San Diego Territories. The agreed cash consideration is \$65,000.

Applicant purchaser is presently operating as a permitted carrier within the State and as of September 30, 1973 indicated a net worth in the amount of \$313,289.

It is alleged that the proposed transfer will enable applicant purchaser to operate more efficiently and effectively in the public interest.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Victory Transportation Service, Inc. and the issuance of a certificate in appendix form to Viking Delivery Service, Inc.

We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

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

Viking Delivery Service, 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 December 1, 1974, Victory Transportation Service, Inc. may sell and transfer the operative rights referred to in the application to Viking Delivery Service, 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 Viking 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 set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted to Victory Transportation Service, Inc. by Decision No. 77270 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.

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

Dated at San Francisco, California, this 13th day of FEBRUARY, 1974.

William L. Stearns
President
William J. ...
...
...
Commissioners

Viking Delivery Service, 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 general commodities:

1. Between all points and places in the San Francisco Territory as described in Note A.
2. Between all points and places in the Los Angeles Basin Territory as described in Note B.
3. Between all points and places in the San Diego Territory as described in Note C.
4. Between all points and places on and within 25 miles laterally of the following named highways:
 - a. Interstate Highway 80 between Oakland and Sacramento, inclusive.
 - b. State Highway 4 between its intersection with Interstate Highway 80 near Pinole, and Stockton, inclusive.
 - c. U.S. Highway 101 between San Jose and San Diego, inclusive.
 - d. State Highway 1 between its intersections with U.S. Highway 101 at Montalvo and Interstate Highway 5 at San Juan Capistrano.
 - e. State Highway 118 between its intersection with U.S. Highway 101 near Ventura, and Chatsworth, inclusive.
 - f. State Highway 99 between Sacramento and Wheeler Ridge and Interstate Highway 5 between Wheeler Ridge and San Fernando, inclusive, except that carrier, pursuant to this authority, shall not serve any point more than five miles easterly of this route between Bakersfield and San Fernando.

Issued by California Public Utilities Commission.

Decision No. 82475, Application No. 54481.

- g. State Highway 33 between Banta and its junction with State Highway 99 near Wheeler Ridge, inclusive.
- h. U.S. Highway 395 (Interstate Highway 15) between Temecula and San Diego, inclusive.
- i. State Highway 60 between the eastern boundary of the Los Angeles Basin Territory and Beaumont and Interstate Highway 10 between Beaumont and Blythe, inclusive, except that between Indio and Blythe, service on or within 25 miles laterally of Interstate Highway 10 is restricted to shipments weighing 20,000 pounds or more (truckload lots).
- j. Interstate Highway 10 between Redlands and Indio and State Highway 86 between Indio and Calexico inclusive, except that no service is authorized to any point north of the northerly boundary of the Los Angeles Basin Territory.
- k. Interstate Highway 8 between Bostonia and Winterhaven, inclusive.
- l. Interstate Highway 40 (U.S. Highway 66), between Newberry and Needles, inclusive, via Amboy and Essex (See restriction below).
- m. U.S. Highway 395 between Independence and its junction with State Highway 14 north of Inyokern, inclusive, restricted to shipments weighing 20,000 pounds or more (truckload lots). (See restriction below).

Restriction: No service is authorized to, from or between intermediate points on Interstate Highways 15 and 40 between San Bernardino and Newberry, nor on State Highway 14 between San Fernando and its junction with U.S. Highway 395 north of Inyokern, nor on any other highways not named herein.

- n. State Highways 33 and 119 between Ventura and Greenfield, inclusive, including the off-route points of Santa Paula and Fillmore.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Issued by California Public Utilities Commission.

Decision No. ~~82475~~, Application No. 54481.

Except that pursuant to the authority herein granted carrier shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 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. 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.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Issued by California Public Utilities Commission.

Decision No. _____, Application No. 54481.

82475

NOTE A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

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Decision No. 82475, Application No. 54481.

NOTE B

LOS ANGELES BASIN TERRITORY

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 118, approximately two miles west of Chatsworth; easterly along State Highway 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 of the City of San Fernando to MacLay Avenue; northeasterly along MacLay and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 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, including the point of March Air Force Base.

Issued by California Public Utilities Commission.

Decision No. ~~82475~~, Application No. 54481.

NOTE C

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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Decision No. 82475, Application No. 54481.