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ORIGINAL

Decision No. 82617

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SILVER FLEET MOTOR EXPRESS, INC., a)
California corporation, to issue a)
promissory note, pursuant to Sections)
216-230 of the California Public)
Utilities Code, and to purchase from)
VICTOR J. JOHNSON, doing business as)
JOHNSON TRANSFER, the Certificate of)
Public Convenience and Necessity)
issued by the Public Utilities)
Commission, and property, pursuant)
to Sections 351-354 of the)
California Public Utilities Code.)

Application No. 54644
(Filed February 7, 1974)

O P I N I O N

Victor J. Johnson, doing business as Johnson Transfer, seeks authority to transfer his highway common carrier certificate of public convenience and necessity and related assets to Silver Fleet Motor Express, Inc., and the latter seeks authority to issue a \$16,500 note.

Victor J. Johnson operates as a highway common carrier of general commodities in the San Francisco-East Bay Cartage Zone pursuant to the certificate of public convenience and necessity granted by Decision No. 54215, dated April 9, 1957, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 36053. Operations are also conducted under a radial highway common carrier permit issued by this Commission and under Interstate Commerce Commission authority.

Silver Fleet Motor Express, Inc. is a California corporation operating as a highway common carrier of general commodities in portions of central and southern California pursuant to the certificate of public convenience and necessity granted by Decision No. 81660, dated July 31, 1973, in Application No. 53849. It proposes to acquire from Victor J. Johnson his operating authority, together with related assets, for \$22,500. Of the total purchase price, \$6,000 would be payable in cash and \$16,500 would be evidenced by a promissory note repayable in monthly installments of \$327 or more, including interest at the rate of 7% per annum.

The corporation's balance sheet as of October 31, 1973, as summarized from Exhibit D attached to the application, is as follows:

<u>Assets</u>	
Current assets	\$195,512
Net property, plant and equipment	<u>239,011</u>
Total	<u>\$434,523</u>

<u>Liabilities</u>	
Current liabilities	\$114,523
Common stock	<u>320,000</u>
Total	<u>\$434,523</u>

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed note would be for a proper purpose.
3. The money, property or labor to be procured or paid for by the note herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.

On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the rights and properties to be transferred. So far as the operative rights are concerned, the authorization herein granted is for the transfer of the highway common carrier certificate of public convenience and necessity only. Any transfer of a permitted operative right must be the subject of a separate application.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Victor J. Johnson and Silver Fleet Motor Express, Inc. and the issuance of a certificate in appendix form to Silver Fleet Motor Express, Inc. These certificates will be restated into one certificate, but such restatement will not change or broaden the combined authority granted by the certificates herein revoked.

Silver Fleet Motor Express, 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 September 30, 1974, Victor J. Johnson may sell and transfer his highway common carrier certificate of public convenience and necessity and related assets to Silver Fleet Motor Express, Inc.

2. On or before September 30, 1974, for the purpose specified in the application, Silver Fleet Motor Express, Inc. may issue a promissory note in the principal amount of not exceeding \$16,500, which note shall be in substantially the same form as Exhibit C attached to the application.

3. Silver Fleet Motor Express, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the transfer, Silver Fleet Motor Express, Inc. shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

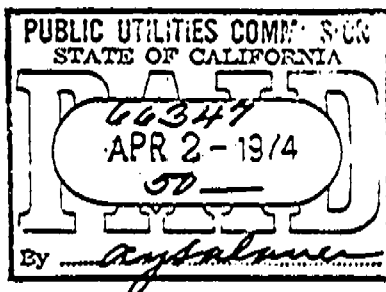
5. Silver Fleet Motor Express, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier 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.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Silver Fleet Motor 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 set forth in Appendix A, attached hereto and made a part hereof.

7. The certificates of public convenience and necessity granted by Decisions Nos. 54815, as amended, and 81660 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

8. This order shall become effective when Silver Fleet Motor Express, Inc. has paid the minimum fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 19th day of March, 1974.



Vernon L. Sturgeon
President
William J. ...
...
...
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Silver Fleet Motor Express, 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 as follows:

- I. Subject to commodity exceptions Nos. 1 through 6;
1. To, from and between all points and places located in the Los Angeles Basin Territory as described in Note A.
 2. Between the San Francisco Territory, as described in Note B, on the one hand, and the Los Angeles Basin Territory, on the other hand.
 3. Between the Los Angeles Basin Territory, on the one hand, and the San Diego Territory, as described in Note C, on the other hand, via Interstate Highways 5 and 15 (U.S. Highway 395) and State Highway 1, serving all intermediate points and places located within twenty miles laterally of the named highways;

PROVIDED, that pursuant to the authority herein granted, carrier shall not transport any explosives, ammunition and/or component parts thereof, to or from the Naval Ammunition Depot at Fallbrook, California.
 4. Between the San Francisco Territory, on the one hand, and the San Diego Territory, on the other hand.
 5. Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway.

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6. Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway, on the one hand, and the Los Angeles Basin Territory and the San Diego Territory, on the other hand, via State Highway 99 and Interstate Highway 5 between Bakersfield and the Los Angeles Basin Territory and Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 1 between the Los Angeles Basin Territory and the San Diego Territory, with service to all intermediate points located on and along said highways and serving all points within twenty miles laterally of said highways mentioned.

Applicant shall not establish through routes and joint rates, charges and classifications for service between the San Francisco Territory, on the one hand, and, on the other hand, any points and places along State Highway 99 between Sacramento and Bakersfield, inclusive, and/or any points located within twenty miles laterally of said highway.

II. Subject to commodity exceptions Nos. 1 through 3;

1. Between all points in the San Francisco-East Bay Cartage Zone as described in Note D.

Except that pursuant to the authority herein granted and as specified, 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.

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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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A

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;

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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.

NOTE B

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

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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.

NOTE C

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four

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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.

NOTE D

SAN FRANCISCO-EAST BAY CARTAGE ZONE

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence

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northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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