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Decision No. 83490

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Republic Industries, Inc., a Delaware corporation, and West Transportation, Inc., a California corporation, to transfer the certificate of public convenience and necessity of West Transportation, Inc. to Republic Industries, Inc.

Application No. 55063
(Filed July 25, 1974)

O P I N I O N

West Transportation, Inc., a California corporation, requests authority to sell and transfer, and Republic Industries, Inc., a Delaware corporation authorized to do business in the State of California, 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. 60454, as amended by Decision No. 61920, in Application No. 41778 and authorizes the transportation of general commodities, with certain exceptions, between points within an area from Novato and Red Bluff, on the north, and the California-Mexican border, on the south. The agreed consideration is \$75,000 payable as follows: \$21,500 in cash and the balance payable in three annual installments of \$17,833.33, with interest at the rate of 7 percent per annum on the unpaid balance.

Applicant purchaser is presently conducting operations as a permitted carrier. It owns and operates 141 units of equipment and employs a general manager, northern and southern California terminal managers, a dispatcher, two salesmen, two office employees, and

40 drivers. Applicant purchaser's principal place of business is located in Kansas City, Missouri. It maintains California terminals at Milpitas and Montebello. As of December 31, 1973, applicant purchaser indicated a net worth in the amount of \$4,226,592.

It is alleged that applicant purchaser is presently uncertain that the permit pursuant to which it presently operates will continue to be adequate to cover an increase in operations due to future demands of its customers and that it seeks to secure the certificate of applicant seller to ensure satisfactory and expanding operations in the future.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

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.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by West Transportation, Inc., and issuance of a certificate in appendix form to Republic Industries, Inc.

Purchaser 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 March 1, 1975, West Transportation, Inc. may sell and transfer the operative rights referred to in the application to Republic Industries, 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. 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 Republic Industries, 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.

5. The certificate of public convenience and necessity granted by Decisions Nos. 60454 and 61920 in Application No. 41778 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. 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.

8. 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 24th day of SEPTEMBER, 1974.

James L. Sturgeon
President
William J. Sturgeon
J. J. Williams
Thomas Moran
Commissioners

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

Republic Industries, 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, except uncrated¹ used household goods, livestock and fresh fruits and vegetables:

- I. Between all points in the San Francisco Territory as described in Note A.
- II. Between all points in the Los Angeles Basin Territory as described in Note B.
- III. Between all points on or within 20 miles of the following routes:
 1. U.S. Highway 101 between Novato and the northern boundary of the San Francisco Territory, and between the southern boundary of the San Francisco Territory and the northern boundary of the Los Angeles Basin Territory, each segment inclusive.
 2. State Highway 37 between its junction with U.S. Highway 101, near Ignacio, and its junction with Interstate Highway 80, near Vallejo, inclusive.

¹Uncrated means not securely packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton burlap, gunny, fibreboard, or straw matting).

3. State Highway 121 between Napa and its junction with State Highway 37 at Sears Point, inclusive.
4. State Highway 29 between Napa and its junction with Interstate Highway 80, near Vallejo, inclusive.
5. State Highway 12 between Schellville and its junction with State Highway 99, near Lodi, inclusive.
6. Interstate Highway 80 between the eastern boundary of the San Francisco Territory and the California-Nevada State Line, inclusive.
7. State Highway 113 between its junction with Interstate Highway 80, near Davis, and its junction with State Highway 99 at Tudor, inclusive.
8. State Highway 70 between Marysville and its junction with U.S. Highway 395 at Hallelujah Junction, inclusive.
9. State Highway 24 between the eastern boundary of the San Francisco Territory and its junction with State Highway 4, north of Concord, inclusive.
10. State Highway 4 between its junction with Interstate Highway 80, near Pinole, and Stockton, inclusive.
11. State Highway 160 between its junction with State Highway 4, near Oakley, and Sacramento, inclusive.
12. State Highway 16 between Sacramento and its junction with Interstate Highway 5, northwest of Sacramento, inclusive.

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13. Interstate Highway 89 between its junction with State Highway 70 at Blairsdan and its junction with U.S. Highway 50 at Tahoe Valley, inclusive.
14. Interstate Highway 5 between Red Bluff and Sacramento; between Stockton and its junction with Interstate Highway 205; between Wheeler Ridge and the northern boundary of the Los Angeles Basin Territory; and between the southern boundary of the Los Angeles Basin Territory and the International Border with Mexico; each segment inclusive.
15. State Highway 99 between Red Bluff and its junction with Interstate Highway 5 at Wheeler Ridge, inclusive.
16. Interstate Highway 580 between the eastern boundary of the San Francisco Territory and its junction with Interstate Highway 205, inclusive.
17. Interstate Highway 205 between its junction with Interstate Highway 580 and its junction with Interstate Highway 5, inclusive.
18. U.S. Highway 50 between Sacramento and the California-Nevada State Line, inclusive.
19. State Highway 20 between Williams and its intersection with Interstate Highway 80, near Yuba Gap, inclusive.
20. State Highway 49 between Placerville and Sattley, inclusive.
21. State Highway 33 between its junction with Interstate Highway 5, near Vernalis, and Ventura, inclusive.

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22. State Highway 166 between Maricopa and its junction with State Highway 99, near Mettler Station, inclusive.
23. State Highway 152 between its junction with State Highway 1, near Watsonville, and its junction with State Highway 99 at Fairmead, inclusive.
24. State Highway 132 between Vernalis and Modesto, inclusive.
25. State Highway 120 between its junction with Interstate Highway 5, and Manteca, inclusive.
26. State Highway 119 between Taft and Greenfield, inclusive.
27. State Highway 46 between Paso Robles and Famoso, inclusive.
28. State Highway 58 between Bakersfield and Barstow, inclusive.
29. Interstate Highway 15 between Barstow and the California-Nevada State Line, inclusive.
30. Interstate Highway 10 between the eastern boundary of the Los Angeles Basin Territory and the California-Arizona State Line, inclusive.
31. State Highway 86 between Indio and the International Border with Mexico, inclusive.
32. State Highway 198 between its junction with State Highway 33, northeast of Coalinga, and its junction with State Highway 65, north of Exeter, inclusive.

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33. State Highway 65 between its junction with State Highway 198 and its junction with State Highway 99, north of Bakersfield, inclusive.
34. U.S. Highway 395 between Hallelujah Junction and the California-Nevada State Line; between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, south of Adelanto; Interstate Highway 15 (U.S. Highway 395) between its junction with U.S. Highway 395, and the northern boundary of the Los Angeles Basin Territory; and between the southern boundary of the Los Angeles Basin Territory and San Diego; each segment inclusive.
35. State Highway 14 between its junction with Interstate Highway 5 south of Newhall and its junction with U.S. Highway 395, northwest of Inyokern, via Rosamond, inclusive.
36. U.S. Highway 6 between the California-Nevada State Line, north of Benton, and Bishop, inclusive.
37. Interstate Highway 40 between Barstow and its junction with U.S. Highway 66, near Ludlow; and between its junction with U.S. Highway 66, east of Fenner, and the California-Arizona State Line; each segment inclusive.
38. U.S. Highway 66 between its junctions with Interstate Highway 40, near Ludlow, and east of Fenner, inclusive.

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Restrictions:

1. No service is authorized to or from points along Interstate Highway 15 between Cajon Junction and Barstow, inclusive.
2. Mechanical duplications and overlaps which occur in describing the operating authority granted herein shall not be construed as conferring more than one operating right to transport the same commodities between the same points.

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

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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 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

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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.

(END OF APPENDIX A)

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