

Decision No. 83719

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

AUDREY MELIKIAN, doing business
as MELIKIAN TRUCKING COMPANY,

To sell and transfer all of Melikian
Trucking Company assets to

COMMERCIAL TRANSFER, INC.,
a California corporation.

Application No. 55127
(Filed August 22, 1974)

O P I N I O N

Applicants seek an order authorizing:

1. Audrey Melikian, doing business as Melikian Trucking Company (Melikian), to sell the certificate of public convenience and necessity, acquired by Decision No. 72658 dated June 25, 1967 in Application No. 49388, and equipment and other assets;

2. Commercial Transfer, Inc. (CTI), a California corporation, to purchase the assets, and granting to CTI an in lieu certificate of public convenience and necessity;

3. The consideration and terms for the above purchase and sale to be as follows:

- a. Completion subject to prior approval of the Interstate Commerce Commission and California Public Utilities Commission;
- b. The sum of \$31,900, \$2,000 of which has already been paid, and the balance of \$29,900 to be paid on completion of the transaction; and

- c. The assumption by CTI of current liabilities and certain long-term liabilities^{1/} of Melikian in an amount not more than \$2,000 in excess of accounts receivable of Melikian on the date of consummation of this transaction.

Melikian is the holder of a certificate of public convenience and necessity heretofore issued by this Commission (as set forth in paragraph 1 above). Melikian also operates in interstate commerce pursuant to a certificate of public convenience and necessity and a certificate of registration which is coextensive with its State certificate, issued by the Interstate Commerce Commission, and an application for transfer of said authorities was filed simultaneously with that Commission.

CTI is duly certificated by this Commission as a cement carrier pursuant to Decision No. 79832 dated March 21, 1972 in Application No. 53070, and also operates as a radial highway common carrier, a dump truck carrier, and a petroleum contract carrier under File No. T-77,228.

Melikian has agreed to sell, and CTI has agreed to buy, subject to the prior approval of the Interstate Commerce Commission and this Commission, the highway common carrier authority and certain other assets, under the terms and conditions recited herein and more fully set forth in Exhibit D to the application.

Applicants jointly aver as follows:

- a. CTI is financially able to purchase said assets and operate thereunder with all necessary experience and equipment to serve the customers and territory of Melikian, as well as its own.

^{1/} List attached as Exhibit H of the application.

b. CTI will provide expanded services and facilities, if necessary, to provide service to the public.

c. Melikian (a widow) is no longer able to operate the company and desires to retire from the business.

d. Approval of this transfer will prevent the creation of a gap in service to the public.

e. CTI will adopt, amend, or reissue the tariffs of Melikian and comply with all Commission requirements.

f. This transfer will not adversely affect competitive carriers.

g. For the above-stated reasons, this transfer is in the public interest.

Findings

1. Melikian should be authorized to sell, and CTI should be authorized to purchase, the certificate of public convenience and necessity and other assets as described in the application under the terms and conditions substantially conforming to that set forth in the application.

2. The transfer of the certificate is not adverse to the public interest.

3. CTI has the financial resources, equipment, and experience to properly operate Melikian's system and to continue, as usual, its own authorized operations.

4. CTI should be authorized to adopt all applicable tariffs of Melikian.

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

Conclusions

1. The application should be granted in accordance with the findings.
2. A public hearing is unnecessary.
3. The authorization granted hereunder shall not be construed as a finding of the value of the rights and properties authorized to be transferred.
4. In the event the transfer is completed, the order which follows will provide for the revocation of the certificate presently held by Melikian (Decision No. 72658) and the issuance of a certificate in appendix form to CTI, which new certificate will not exceed in scope the certificate of Melikian, nor will it broaden or change the interstate or foreign commerce rights.

Commercial Transfer, Inc., a California corporation, 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 31, 1975, Audrey Melikian, doing business as Melikian Trucking Company, may sell and transfer the operative rights and property referred to in the application to Commercial Transfer, 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 of this order is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3 of this order, a certificate of public convenience and necessity is granted to Commercial Transfer, Inc., a California 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. This certificate will be restated, but such restatement will not change or broaden the authority transferred.

5. The certificate of public convenience and necessity granted by Decision No. 72658 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 of this order.

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 13th day of NOVEMBER, 1974.

Vernon L. Stevenson
President
William J. Quinn Jr.
[Signature]
Robert E. McLeod
Commissioners

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

Commercial Transfer, 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 the following named commodities:

Alcoholic Beverages, viz.: beer, wine, whiskey, Champagne, vermouth and brandy.

Dried Fruit, including raisins.

Pallets or platforms, elevating truck, or skids, lift truck.

Petroleum Products in Packages, viz.:
petroleum or petroleum products, including compound oils or greases having a petroleum base, as listed under that heading in Items Nos. 36390 through 36465 of Western Classification No. 75, Cal. P.U.C. No. 8, of Geo. H. Dumas, Agent, on the date of issue thereof; asphalt (asphaltum), natural, by-product of petroleum, liquid (other than paint, stain or varnish) or solid; gas, petroleum liquified, compressed; lubricant, grease binder (lubricating grease having a petroleum base, combined with cotton, jute or wool binder, not oiled waste).

Roofing, Building or Paving Materials as listed in Item No. 1100 of Exception Sheet No. 1-S, Cal. P.U.C. No. 193, of J. P. Haynes, Agent, on the issue date thereof.

Fibreboard boxes.

Salt, Common.

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Glassware, viz.: bottles, carboys, demijohns or jars.

Bakery Goods, viz.: biscuits, cookies, cakes, crackers, pretzels, toast or dog biscuits.

Candy or confectionery (as listed under that heading in Items Nos. 8935 through 9030 of Western Classification No. 75, Cal. P.U.C. No. 8 of George H. Dumas, Agent, on the issue date thereof and supplements numbers 40, 41 and 45 thereto).

between:

1. San Francisco Territory as described in Note A, on the one hand, and Escalon and Fresno, on the other hand.
2. Los Angeles Territory, as described in Note B, on the one hand, and Fresno, on the other hand.
3. Fresno and San Diego.
4. Fresno, on the one hand, San Rafael and Santa Rosa, on the other hand.
5. Livermore and Los Angeles.
6. Livermore and Fresno.
7. Stockton and Fresno and intermediate points, via State Highway 99, with the right to serve points within a 5-mile radius of Fresno.

Restrictions: The operating authorities set forth in Paragraphs 1 through 6 above do not include the right to serve from, to or between intermediate points. Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in Paragraphs 1 and 3.

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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; southwestly 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

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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 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.

(End of Appendix A)

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