

**ORIGINAL**Decision No. 84416

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of

CLIFFORD L. AKSLAND,  
an individual, doing business as  
Sunrise Transportation, to transfer  
to, and of Sunrise Transportation,  
Inc., a corporation, to acquire, a  
highway common carrier certificate  
of public convenience and necessity,  
business operation, and authorities  
to deviate from minimum rates

and

SUNRISE TRANSPORTATION, INC.,  
a corporation, to issue shares of  
its capital stock.

Application No. 55482  
(Filed February 6, 1975)

O P I N I O N

Clifford L. Aksland (Aksland), an individual doing business as Sunrise Transportation, requests authority to transfer to Sunrise Transportation, Inc. (Sunrise), a California corporation, the following:

1. A certificate of public convenience and necessity to operate as a highway common carrier issued by Decision No. 56649 dated May 6, 1958 in Application No. 39274, as amended by Decisions Nos. 56793 and 63040.
2. Authority to deviate from the minimum rates for the transportation of common lime for Merck & Co., Inc. currently set forth in Special Deviation Docket Order No. 301.
3. Authority to deviate from the minimum rates for the transportation of bulk sugar for Amstar Corporation, Spreckels Sugar Division, currently set forth in Special Deviation Docket Order No. 328.

The application also requests authority for Sunrise to issue 5,500 shares of its \$5.00 per share par value common stock in exchange for the assets and liabilities of Aksland's business.

The application states that: "The purpose of the transactions sought to be authorized herein is to change the form under which Transferor does business from an individual proprietorship to a corporation. Transferor's business has grown to such an extent that the individual proprietorship method of carrying on its business has become cumbersome and fraught with possible excessive personal liability. Clifford L. Aksland, Transferor, has owned and managed the business sought to be transferred herein since 1951, and has considerable experience in the trucking business. Should this application be granted, he will own 100% of the outstanding stock of Transferee and will continue as President and Treasurer of Transferee to manage the business."

The application further states: "It is in the public interest to authorize the transfer herein proposed and to authorize the issuance of stock for the reason that the transaction will give permanence to the business and make it continuously available to the public through the medium of a corporate enterprise. The operations of the corporation will be conducted at the same location, by the same individuals and with essentially the same equipment and facilities as the prior operations, and it is felt that the corporation will be in a position to continue to offer the public an efficient and useful highway carrier service."

Aksland also holds permits authorizing operations as a dump truck carrier, highway contract carrier, and petroleum contract carrier. Separate applications have been filed to transfer these authorities to Sunrise. Application has also been filed with the Interstate Commerce Commission requesting authority to transfer Aksland's interstate authority to Sunrise.

Exhibit E attached to the application contains a balance sheet of Aksland as of October 31, 1974. It discloses assets of \$269,366 offset by liabilities of \$241,417, and net worth of \$27,949. There are no protests.

Findings

1. The proposed transfers would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property, or labor to be procured by the issue of the stock 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 income.
4. A public hearing is not necessary.

Based on the foregoing findings the Commission concludes that the application should be granted.

The action taken herein shall not be construed as a finding of the value of the rights and properties 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 Clifford L. Aksland and the issuance of a certificate in appendix form to Sunrise Transportation, Inc. This certificate will be restated, but such restatement will not change or broaden the authority transferred.

Sunrise Transportation, 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 31, 1975, Clifford L. Aksland may sell and transfer the operative rights and property referred to in the application to Sunrise Transportation, Inc.

2. The rate deviation authorities set forth in Special Deviation Docket Orders Nos. 301 and 328 are transferred to Sunrise Transportation, Inc.

3. On or after the effective date of this order and on or before December 31, 1975, for the purpose specified in this proceeding, transferee may assume indebtedness and issue not exceeding 5,500 shares of its common stock having a par value of \$5.00 per share.

4. 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.

5. 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.

6. 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 or 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.

7. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 6, a certificate of public convenience and necessity is granted to Sunrise Transportation, 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 of this decision.

8. The certificate of public convenience and necessity granted by Decision No. 56649 in Application No. 39274, as amended by Decisions Nos. 56793 and 63040, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 6.

9. 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.

10. 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.

11. 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 authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$56.00. In other respects the effective date of this order is the date hereof.

Dated at San Francisco, California, this 13th day of MAY, 1975.

Vernon L. Stinson  
President  
William J. Quinn  
[Signature]  
[Signature]  
Commissioners

PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
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Sunrise Transportation, 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 following transportation:

1. Bakery Goods, viz.:
  - a. Bakery goods in baskets with solid or basket-work covers or in cans or cartons in crates or racks.
  - b. Bakery goods in barrels, boxes, steel pails or packages; also in carload (20,000 lbs.), in cartons not exceeding 30 pounds gross weight, or in cans with or without glass fronts; stale bread may be shipped in bags.
  - c. Bakery goods, in mixed carload (20,000 lbs.) with dishes or ice cream cones, edible.
  - d. Cones, ice cream, chocolate coated or rolled, not molded, in boxes or packages.
  - e. Cones, ice cream, edible, in barrels or boxes, in cartons in crates, in paper tubes in metal cans, or in packages.
  - f. Dishes, edible, in barrels or boxes, in cartons in crates or in packages.
  - g. Dust or meal, biscuit, bread, cracker or matzos, including meal ground from baked sheets of dough, in bags, barrels, boxes or packages.
  - h. Pies, in boxes or packages.
2. Foodstuffs, viz.:
  - a. Bread, cake or roll, including brown, chocolate and nut, date and nut, orange and nut or pumpernickel, in hermetically sealed metal cans in barrels or boxes.
3. The above commodities will not be transported when protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration is required.

BETWEEN all points and places on or within 5 miles laterally of the following highways:

1. Interstate Highway 80 between San Francisco and Sacramento;
2. State Highway 29 between Napa and its junction with Interstate Highway 80;
3. State Highway 99 between Sacramento and Tipton;

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4. County Road J-26 between Tipton and Porterville;
5. State Highway 65 between Exeter and Lindsay, and County Road J-29 between Lindsay and Porterville;
6. State Highway 198 between Hanford and Exeter;
7. Interstate Highways 80, 580, 205 and 5 between San Francisco and Stockton;
8. State Highway 4 between its junction with Interstate Highway 80 and Stockton;
9. U. S. Highway 101 between San Jose and Gilroy;
10. State Highway 152 between Gilroy and Califa Junction;
11. State Highway 120 between its junction (Mossdale Wye) with Interstate Highway 5 and its intersection with State Highway 108 (Yosemite Junction);
12. State Highway 49 between Sonora and Yosemite Junction;
13. State Highway 108 between Modesto and Oakdale;
14. State Highway 59 between Merced and its junction with State Highway 152; and
15. State Highway 24, Interstate Highway 680 and various un-numbered county roads between Concord and Sunol, serving the off-route points of Pleasanton and Livermore.

Restriction:

No shipment shall be transported which has both origin and destination in the San Francisco Territory as described in Note A, with the exception of shipments between San Francisco, Richmond, intermediate points between San Francisco and Richmond on Interstate Highway 80, Oakland, Alameda, San Leandro and Hayward.

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.

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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; southwestwesterly 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

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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.

(End of Appendix A)

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