

ORIGINAL

Decision No. 85200

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
tion of:)

WEST COAST WAREHOUSE CORPORA-)
TION, a California corporation,)
and BURTON TRUCK & TRANSFER)
CO., a California corporation,)
to exchange certificates of)
public convenience and neces-)
sity issued by the California)
Public Utilities Commission,)
authorizing the transportation)
of general commodities, with)
specified exceptions, between)
various points in Southern)
California.)

Application No. 56008
(Filed October 17, 1975)

O P I N I O N

West Coast Warehouse Corporation (West Coast), and Burton Truck & Transfer Co. (Burton), both of which are California corporations request authority to sell and transfer and purchase and acquire each other's certificate of public convenience and necessity authorizing operations as highway common carriers.

The certificate held by West Coast was granted by Decision No. 53637, dated August 28, 1956, in Application No. 36276, as amended by Decision No. 54113, dated November 19, 1956. The certificate, as amended, authorizes transportation of general commodities, with the usual exclusions between various points within Los Angeles and Orange counties. The certificate was registered with the Interstate Commerce Commission in Docket No. MC-105537, Sub-No. 5.

Burton Truck & Transfer Co., holds a certificate granted by Decision No. 61450, dated February 7, 1961, in Application No. 42813, as amended by Decision No. 74082, dated May 7, 1968. The

certificate authorizes transportation of general commodities with the usual exclusions between points within the Los Angeles Basin Territory and the San Diego Territory and between such territories, including intermediate points and off-route points. Burton's certificate was registered with the Interstate Commerce Commission in Docket No. MC-3853, Sub-No. 3.

The applicants, on January 25, 1975, filed their application with the Interstate Commerce Commission in Docket No. MC-F-12422 for authority, pursuant to Section 5 of the Interstate Commerce Act, to consummate the transactions proposed herein. Notice of the filing of said application was published in the Federal Register on February 12, 1975. On April 30, 1975, the Interstate Commerce Commission issued its Order No. MC-F-12422 granting said application. Consideration for the sale and transfers of the operating authorities is as follows:

1. From West Coast to Burton, the certificate granted by Decision No. 53637, as amended, and the sum of ten thousand dollars (\$10,000) to be paid in cash on consummation of the transaction.
2. From Burton to West Coast, the certificate issued by Decision No. 61450, as amended.

Both applicants are parties to Western Motor Tariff Bureau, Inc., Agent, tariffs as are necessary for publication of rates to cover their respective operating rights, including intrastate, interstate and foreign commerce operations. Each of the applicants proposes to adopt the applicable tariffs of the other.

The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. The relief is requested on the basis of Rule 87 which permits deviation from the rules in order to secure just, speedy and inexpensive determination of the issues presented. In support thereof, the applicants allege that the transactions will not result in a change in the competitive relationships among carriers and that there will be no change in the

rates and charges now assessed the public as a result of the transfers. Notice of the filing of the application appeared in the Commission's Daily Calendar of October 20, 1975. No protests to the application have been received.

After consideration, the Commission finds:

1. The requested deviation from its Rules of Practice and Procedure should be authorized;
2. The proposed transfers would not be adverse to the public interest.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The operating rights will be restated in new certificates. The new certificates issued to the applicants will not broaden the interstate or foreign commerce rights held by the carriers. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by West Coast Warehouse Corporation and Burton Truck & Transfer Co., and the issuance of in lieu certificates in appendix form to West Coast Warehouse Corporation and Burton Truck & Transfer Co.

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

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1976, West Coast Warehouse Corporation and Burton Truck & Transfer Co., a corporation, may sell and transfer the operative rights referred to in the application to each other.

2. Within thirty days after the transfer the applicants shall file with the Commission written acceptances of the certificates and a true copy of the bills of sale or other instruments of transfer.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established, as their 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 transfers. 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 cancellation of the operating authorities granted by this decision.

4. In the event the transfers authorized in paragraph 1 are completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to West Coast Warehouse Corporation and Burton Truck & Transfer Co., authorizing each of them 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 the Appendices attached hereto and made

a part hereof.

5. The certificates of public convenience and necessity granted by Decision 53637, as amended, and Decision No. 61450, as amended, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants 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.

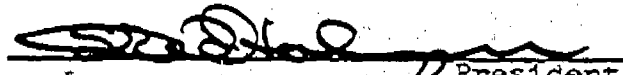
7. Applicants shall maintain accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

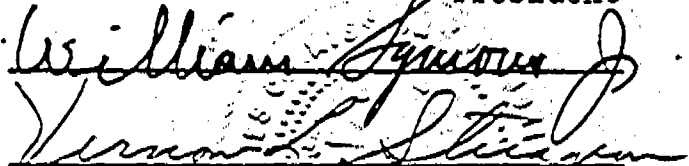
8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If they elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

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

Dated at San Francisco, California, this 2nd day of December, 1975.


President


Commissioner


Commissioners

Burton Truck & Transfer Co., a corporation, 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 between all points and places within the following described area:

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Sepulveda Boulevard northerly along Sepulveda Boulevard to State Highway 118; northeasterly along State Highway 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway 118 to and including the City of Pasadena; easterly along U. S. Highway 66 to State Highway 19; southerly along State Highway 19 to Lower Azusa Road; easterly on Lower Azusa Road to its intersection with 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 State Highway 72; southeasterly and southerly on State Highway 72 to State Highway 90; southeasterly on State Highway 90 to State Highway 91; southerly on State Highway 91 to State Highway 55; southerly along State Highway 55 and its prolongation to the Pacific Ocean; westerly and northerly along the shore line 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 the point of beginning.

Applicant shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not 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,

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bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).

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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. 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.
6. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

(END OF APPENDIX A)

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West Coast Warehouse Corporation, a corporation, 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 within the Los Angeles Basin Territory as described in Note A.
2. Between the Los Angeles Basin Territory, on the one hand, and on the other hand, all points and places within the San Diego Territory, as described in Note B.
3. From the Los Angeles Basin Territory, on the one hand, to (a) all points on Interstate Highway 5 and U. S. Highway 395 between the Los Angeles Basin Territory and the San Diego Territory; (b) all points laterally within five miles of Interstate Highway 5 between the Los Angeles Basin Territory and the San Diego Territory; (c) all points on State Highway 78 between junction with Interstate Highway 5 and U. S. Highway 395, on the other hand.

Applicant shall not transport any shipments of:

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not 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).
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,

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- trucks and trailers combined, buses and bus
ch
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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
 5. 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.
 6. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
 7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
 8. Logs.
 9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

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; 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 Avenue and its prolongation to the Angeles National Forest Boundary;

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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 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 B)

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