

ORIGINAL

Decision No. 85635

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of THREE-B FREIGHT SERVICE, INC.,)
 a California corporation, to)
 purchase from AZTEC TRANSPORTA-)
 TION COMPANY, INC., a California)
 corporation, the Certificate of)
 Public Convenience and Necessity)
 for the transportation of general)
 commodities, issued by the Public)
 Utilities Commission, pursuant to)
 Sections 851-854 of the Cali-)
 fornia Public Utilities Code,)
 and for the issuance of an In-)
 Lieu Certificate of Public Con-)
 venience and Necessity.)

Application No. 56189
 (Filed January 7, 1976)

OPINION

Aztec Transportation Co., Inc., a California corporation, (transferor), San Diego Wholesale Credit Men's Association and Three-B Freight Service, Inc., a California corporation (transferee), request authority for the sale, transfer and purchase of a certificate of public convenience and necessity authorizing operations as a highway common carrier.

Said certificate was granted to Aztec Transportation Co., Inc., by Decision 82793, dated April 30, 1974, in Application 54290, and registered with the Interstate Commerce Commission in Docket No. MC 120575 (Sub No. 4). The certificate authorizes the transportation of general commodities, with the usual exceptions within the San Diego Territory and between such territory and certain points in the area adjacent thereto.

Transferor also intends to transfer the Certificate of Registration and a Certificate of Public Convenience and Necessity

issued by the Interstate Commerce Commission in Docket No. MC 120575 (Sub No. 3).

Pursuant to the Purchase and Sale Agreement of October 31, 1975, the purchase price for the operating authorities is:

1. California Certificate granted by Decision 82793 and goodwill - \$15,000.
2. Certificate of Registration, MC 120575 (Sub No. 4) and goodwill - \$15,000.
3. ICC Certificate MC 120575 (Sub No. 3) and goodwill - \$13,000.

The proceeds of the sale in the amount of \$43,000 will be paid with a \$4,300 down payment and the balance to be paid subsequent to the final administrative approval of the sale and transfer.

The total consideration for the sale is to be paid to San Diego Wholesale Credit Men's Association under a General Assignment for the Benefit of Creditors, Exhibit A of the application.

Three-B Freight Service, Inc., presently holds a certificate of public convenience and necessity granted by Decision 61848, dated April 18, 1961, in Application 43078, as amended by Decision 63097 and transferred to it by Decision 67953. The certificate authorizes transportation of general commodities with the usual exceptions within the Los Angeles Basin Territory.

Transferee's balance sheet of June 30, 1975 shows assets of over \$200,000 and liabilities of about \$22,000. Its income statement for the first six months of 1975 shows an operating ratio of 94.2 percent.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. It is alleged that a copy of the application was served on the California Trucking Association. Notice of the filing of the application was made in the Commission's

Daily Calendar of January 19, 1976. No protests to the application have been received.

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. Transferee will be required to adopt or establish such tariffs as its own.

After consideration, the Commission finds:

1. The proposed transfer of the intrastate certificate would not be adverse to the public interest.

2. The requested relief from the Commission's Rules of Practice and Procedure should be authorized.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by Aztec Transportation Co., Inc., and Three-B Freight Service, Inc., and the issuance of a certificate in appendix form to Three-B Freight Service, Inc.

The new certificate issued to Three-B Freight Service, Inc., will not broaden or change the interstate or foreign commerce rights held by the carriers.

Transferee 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 cancelled 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 value of the rights to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1976, Aztec Transportation Co., Inc., a California corporation, may transfer the operative rights, granted by Decision 82793 to Three-B Freight Service, Inc., a California corporation.
2. Within thirty days after the transfer, the transferee 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. Transferee 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 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 80-Series. Failure to comply with the provisions of General Order 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 Three-B Freight Service, 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.

5. The certificates of public convenience and necessity granted by Decisions 82793 and 61848, as amended, are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

7. Transferee 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. Transferee shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Applicants are granted relief 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 30th day of March, 1976.

~~SECRET~~
President
William Seymour Jr.
Vernon L. Sturgeon
Ross
Robert B. Linn
Commissioners

Three-B Freight Service, 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. Between all points and places within the Los Angeles Basin Territory as described in Note A.
- II. Between the City of San Diego, on the one hand, and points and places within Borrego Valley, on the other hand.
- III. Between all points and places in the San Diego Area as described in Note B.
- IV. Between:
 1. All points and places within the San Diego Territory, as described in Note C, on the one hand, and all points and places on or within ten miles of the following highways between Borrego Springs and Calexico, on the other hand:
 - a. County road S-3 between Borrego and its junction with State Highway 78.
 - b. State Highway 78 between its intersection with county road S-3 and its junction with State Highway 86, at Kane Spring,
 - c. State Highway 86 between its junction with State Highway 78 at Kane Spring, and Brawley.
 - d. State Highway 111 between Brawley and Calexico.

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- e. Alternate route: State Highway 79 between Santa Ysable and its intersection with county road S-22, and county road S-22 between its junction with State Highway 79 and Borrego Springs.
 - 2. Calexico and Tecate along State Highway 98 to the junction of Interstate Highway 8, near Ocotillo; thence via Interstate Highway 8 to its junction with State Highway 94, at Boulevard; and via State Highway 94 to its junction with Tecate Road, and all points within ten miles of said highways.
- IV. Duplications which occur in describing the operating rights herein, are not to be construed as granting more than one certificated authority to transport the same commodities between the same points.

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; 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

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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 AREA

The San Diego Area includes that area embraced by the following boundary:

Beginning at a point where the boundary line between San Diego and Orange Counties intersects the shoreline of the Pacific Ocean, thence in a general easterly direction along said County boundary line to its intersection with State Highway 79, thence southerly along State Highway 79 to its intersection with Interstate Highway 8, thence due south along an imaginary line to the International Border between the United States and Mexico, thence westerly along said International Border to the shoreline of the Pacific Ocean, thence northerly along said shoreline to the 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 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 A)

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