

Decision No. 86035

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of RAPID FREIGHT SYSTEMS, a )  
 corporation, for authority to )  
 acquire a Certificate of Public )  
 Convenience and Necessity, from )  
 INTERCITY TRUCK & DELIVERY SER- )  
 VICE, INC., a corporation, pur- )  
 suant to Section 851, et seq., of )  
 the California Public Utilities )  
 Code. )

Application No. 56453  
 (Filed April 30, 1976)

O P I N I O N

Rapid Freight Systems, a California corporation, (purchaser), seeks authority to acquire from the Internal Revenue Service, United States of America, the certificate of public convenience and necessity granted to Intercity Truck & Delivery Service, Inc., a California corporation, by Decision 61040, dated November 15, 1960 in Application 42711 and registered with the Interstate Commerce Commission in Docket No. MC-99877 (Sub - No. 1).

The certificate authorizes transportation of general commodities with the usual exceptions between points within the Los Angeles Basin Territory.

The Internal Revenue Service seized the certificate from Intercity Truck & Delivery Service, Inc., for delinquent taxes and at public auction arranged to sell it to Rapid Freight Systems under the provision of Subchapter D, Chapter 64 of the Internal Revenue Code. The sale of the certificate requires this Commission's authorization pursuant to Section 851 of the Public Utilities Code.

Pursuant to Decision 82530, dated March 5, 1974, in Application 54627, Intercity Truck & Delivery Service, Inc., encumbered the certificate by issuing promissory notes and a security agreement to Cecil C. Clark and Thomas Edward Goehringer for working

capital. These existing notes and security agreement will be replaced by similar instruments (Exhibits "C", "D" and "E" respectively to the application) issued by Rapid Freight Systems to Bess C. Goehringer and C. C. Clark to preserve their financial interest in the certificate.

The consideration for the sale totals \$59,946.34 of which \$39,946.34 is for the intrastate certificate and the balance of \$20,000 is for the Certificate of Registration issued by the Interstate Commerce Commission. The proceeds from the sale are to be distributed as follows:

1. \$27,500.00 to the Internal Revenue Service.
2. \$31,198.34 to Bess C. Goehringer and C. C. Clark, to be evidenced almost entirely by the promissory notes, such amount to be paid in monthly installments of not less than \$298.39 to each party which includes interest at 8% per annum.
3. \$1,248.00 to the Commission to pay delinquent transportation rate fund fees.

Applicant purchaser presently holds highway carrier permits issued by this Commission. Its unaudited balance sheet of November 30, 1975 shows net worth of \$65,816.92. It operates 13 power vehicles, 12 trailers and other highway equipment. Purchaser will obtain other equipment necessary for operations under the certificate by lease or purchase.

Intercity Truck & Delivery Service, Inc., is party to Western Motor Tariff Bureau, Inc., Agent, tariff publications as are necessary for publication of rates to cover the operations under the certificate to be transferred. Purchaser proposes to adopt the tariffs. Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which require wide distribution of the application. Service of the application was made upon the California Trucking Association and notice of the application was listed in the Commission's Daily Calendar on May 5, 1976. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed transfer of the certificate and encumbrance of such operating rights would not be adverse to the public interest.

2. The proposed security issue is for proper purposes. The money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part reasonably chargeable to operating expenses or to income.

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

The Commission concludes that the proposed transactions 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 certificate held by Intercity Truck & Delivery Service, Inc., and the issuance of a certificate in appendix form to Rapid Freight Systems, a corporation. The new certificate issued to the purchaser will not broaden or change the interstate or foreign commerce rights held by the carrier.

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 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 authorized to be transferred.

O R D E R

1. On or before December 31, 1976 the District Director of Internal Revenue, acting for and on behalf of the United States of

America may sell and transfer the operative rights referred to in the application to Rapid Freight Systems, a California corporation.

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 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 Rapid Freight Systems, 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 certificate of public convenience and necessity granted by Decision 61040 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 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 April 30 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 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.

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

10. Purchaser, for the purpose specified in this proceeding, may issue promissory notes aggregating not exceeding \$29,431.48 in substantially the same forms as Exhibits "C" and "D" attached to the application.

11. Purchaser may execute and deliver a security agreement in substantially the same form as that attached to the application as Exhibit "E".

12. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order 24-Series.

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

Dated at San Francisco, California, this 29<sup>th</sup> day of June, 1976.

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President  
*William J. ...*  
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*Vernon ...*  
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*John ...*  
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*Robert ...*  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Rapid Freight Systems, 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 in the Los Angeles Basin Territory as described in Note A hereof.

Except that pursuant to the authority herein granted carrier 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, 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.

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4. 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.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

## 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.

(END OF APPENDIX A)

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