

**ORIGINAL**

Decision **83 02 072** February 16, 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of L.A.S.V. Transportation, LTD., )  
a corporation, to acquire, and )  
Twentieth Century Trucking Co., )  
to transfer a Common Carrier )  
Certificate (1063) (and certain )  
property pursuant to Sections )  
851, et seq. of the California )  
Public Utilities Code). )

Application 82-10-56  
(Filed October 26, 1982;  
amended January 17, 1983)

O P I N I O N

L.A.S.V. Transportation, LTD. (buyer), a California corporation, requests authority to acquire and Twentieth Century Trucking Company (seller), a California corporation, requests authority to sell the highway common carrier certificates and trucking business of seller in accordance with the sales agreement set out in Exhibit B of the application. By amendment to the applications seller and buyer have agreed that the common stock of Cannonball Express and Messenger Co. do not constitute any part of the properties of assets to be transferred to buyer. Notice of the filing of the application was published in the Commission's Daily Transportation Calendar of October 29, 1982. Notice of the amendment to the application was published in the Commission's Daily Transportation calendar of January 24, 1983. No protests to the application have been received.

The principals of buyer are former employees of seller. They desire to purchase the assets and authority of seller and continue seller's operation, thereby preserving their employment and the employment of other employees of seller.

Under the terms of the sales agreement, entered into on November 1, 1981, buyer will obtain the physical assets of seller's trucking business, except for seller's three terminals which will be leased to buyer. Seller will retain a security interest in the physical assets transferred to buyer. Buyer will also obtain

seller's highway common carrier certificates issued to seller under Public Utilities (PU) Code §§ 1063 and 1063.5. Application to transfer the latter certificate has been made in a separate filing and will be processed separately. Seller also holds a highway contract carrier permit under File T-45,078. It will be transferred to the buyer by separate application. As consideration for the transfer of the assets of the trucking business and certificates, buyer has agreed to pay seller \$110,000, payable in installments with interest on the unpaid balance of 12%. Buyer also has agreed to pay seller 10% of the yearly profits for a period of five years but not to exceed \$90,000. Closing date of the transaction was January 29, 1982. The agreement anticipates that because of accounting problems and the securing of the necessary approval to transfer the certificates, there will be a time lag before the transaction can be finally settled. Buyer and seller have agreed that buyer will operate seller's trucking business as agent of seller. However, all financial matters, credits, etc. will be allocated and reconciled upon final settlement as if buyer had had the rights already transferred on November 1, 1981 and was acting as a completely independent entity during the interim period.

During the first two months of the interim period - November 1 through December 31, 1981 - buyer recorded total operating revenues of \$569,296 for a net profit of \$6,050. As of December 31, 1981, buyer recorded assets of \$422,112, liabilities of \$396,062, and a net worth of \$26,050. Seller's trucking operations for the year 1981 had gross revenue of \$2,370,078 for a net loss of \$209,412.

Findings of Fact

1. Seller requests authority to sell and buyer requests authority to buy the highway common carrier certificates and trucking business, exclusive of real property, of seller for \$110,000 and 10% of buyer's profits for five years.

2. The certificate sought to be transferred by this application was issued to seller by Decision 76308 in Application 50826.

3. The other certificate sought to be transferred was issued to seller under PU Code § 1063.5 and an application to transfer that certificate has been filed separately and will be processed separately.

4. The principals of buyer are former employees of seller and they desire to purchase seller's business so as to continue the operation and preserve their employment and the employment of other employees of seller.

5. Seller has been engaged in the trucking business for a number of years and during the last year of operation had gross revenue from trucking operations in excess of \$2 million.

6. During the first two months of operations under the agency arrangement, buyer grossed \$569,296 and had a net profit of \$6,050.

Conclusion of Law

The proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.

The two highway common carrier certificates held by the seller were acquired under different provisions of the PU Code. They are considered as one authority inasmuch as the certificate acquired under § 1063.5 of the PU Code, which is to be transferred under a separate application, completely overlaps the certificate to be transferred under this application. Buyer is placed on notice that such operative rights may not be separated to allow the sale or transfer of one or more of such duplicative rights and the retention of another certificated right to perform the same service.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Twentieth Century Trucking Company may sell and transfer the operative rights (and property) specified in the application as amended to L.A.S.V. Transportation, LTD. This authority shall expire if not exercised by August 31, 1983, or within such additional time as the Commission may authorize.

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 104, and 147, and the California Highway Patrol safety rules.
- d. File an annual report of seller's operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to L.A.S.V. Transportation, LTD, a corporation, authorizing it to operate as a highway common carrier, as defined in PU Code § 213, between the points and over the routes listed in Appendix A.

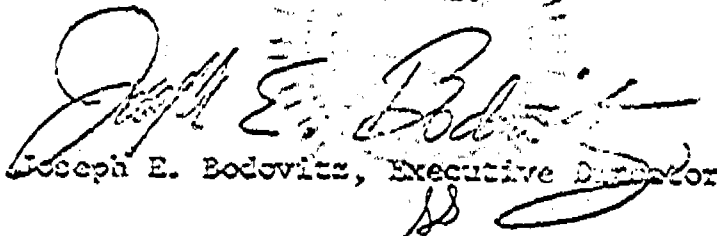
4. The certificate of public convenience and necessity granted by Decision 76308 is revoked on the effective date of the tariffs.

This order becomes effective 30 days from today.

Dated FEB 16 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

L.A.S.V. Transportation, LTD., 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 Public Utilities Code Section 213 for the transportation of general commodities as follows:

1. Between all points and places in Los Angeles Basin Territory as described in Note 1.
2. Between all points and places in San Diego Territory as described in Note 2.
3. Between Los Angeles Basin Territory, as described in Note 1, on the one hand, and San Diego Territory, as described in Note 2, on the other hand, including all points and places on and within five statute miles laterally of Interstate Highway 5.
4. Between all points and places described in paragraphs 1 and 2 above, on the one hand, the City of Santa Barbara on the other hand, including all points and places on and within five statute miles laterally of U.S. Highway 101 and State Highway 1.
5. Between all points and places within Goleta, and between all points and places within five statute miles laterally of U.S. Highway 101 between Goleta and Santa Barbara, subject to the restriction shown below.

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6. Between all points and places beginning at a point on State Highway 33 laterally five statute miles north of U.S. Highway 101, along State Highway 33 northerly to State Highway 150, easterly along State Highway 150 to Santa Paula, including all points on and within five statute miles laterally of State Highways 33 and 150, subject to the restriction shown below.
7. Between all points and places beginning at a point on State Highway 126 laterally five statute miles north of U.S. Highway 101, along State Highway 126 northeasterly to Fillmore, southerly on State Highway 23 to Moorpark, easterly along State Highway 118 to a point statute miles east of Santa Susana including all points on and within five statute miles laterally of the described portions of State Highways 126, 23, and 118. Subject to the restriction shown below.
8. Between all points in paragraphs 1 and 2 above and all points on Interstate Highway 15 beginning at the intersection of said highway and the southern boundary of Los Angeles Basin Territory as described in Note 1, near Temecula; southerly to its intersection with the northern boundary of San Diego Territory as described in Note 2, at Miramar, including all points and places on and within five statute miles laterally of Interstate Highway 15, including the off route point of Vista, subject to the restriction shown below.

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RESTRICTION:

Service is limited to shipments not exceeding 750 lbs. in weight.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

Except that under the authority 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, briefcases, 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.

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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 semiplastic 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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
9. Logs.

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## NOTE 1

## 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; northeasterly along the 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 the 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 60 and Interstate Highway 15 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; westerly to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along the corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along the 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 Interstate Highway 15; southerly along Interstate Highway 15 to the Riverside County-San Diego County boundary line; westerly along the boundary line to the Orange County-San Diego County boundary line; southerly along the 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.

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/ALJ/jn

Appendix A

L.A.S.V. TRANSPORTATION, LTD.  
(a California corporation)

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NOTE 2

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 Interstate Highway 15; following an imaginary line running southeasterly to Lakeside on State Highway 67; southerly on County Road S-17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; due south following an imaginary line to the California-Mexican boundary line; westerly along the boundary line to the Pacific Ocean and north along the shoreline to the point of beginning.

(END OF APPENDIX A)

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