

**ORIGINAL**

Decision 83 05 073 MAY 18 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application )  
of GACC EXPRESS, INC., to activate )  
and acquire a certificate of public )  
convenience and necessity from JOAN )  
SLOAN and DON SLOAN (SIC) doing )  
business as D&J TRANSPORTATION. )

Application 60619  
(Filed June 2, 1981;  
amended March 7, 1983)

O P I N I O N

By this application GACC Express, Inc. (GACC), a California corporation, seeks authority to acquire a certificate of public convenience and necessity as a highway common carrier from Joan C. Sloan (Seller), doing business as D&J TRANSPORTATION, T-73,342.

Seller's highway common carrier certificate was granted by Decision (D.) 82950 dated June 5, 1974 in Application 54635. It authorizes the transportation of general commodities, with certain exclusions, between all points and places in the San Francisco Territory. This certificate has been registered with the Interstate Commerce Commission and a Certificate of Registration has been issued by that Commission in Docket MC 121436. Seller at the present time holds no other operating authority from this Commission. The certificate is currently in temporary suspension.

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The purchase agreement, filed as Exhibit 3 of the application, states that the purchase price is \$9,000 for the certificate and goodwill. This amount is payable as follows: \$3,000 has been placed in escrow and will be released to Seller upon consummation of the transfer and \$6,000 in cash will be paid by GACC to Seller at that time.

The balance sheet of GACC dated September 31, 1981 shows a net worth of \$58,586 with a net income after taxes of \$33,386. A copy of the application was furnished to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of June 5, 1981. No protests to the application have been received. GACC holds permitted authority as a highway contract carrier and a heavy specialized carrier under File No. T-137,606. It also holds a highway common carrier certificate issued under Public Utilities (PU) Code Section 1063.5 by Resolution 18152 effective March 23, 1982 in Application 61121. This certificate authorizes the transportation of general commodities, subject to certain exclusions, between all points in the State of California. GACC did not provide the necessary financial information and supporting documents until April, 1983.

The two highway common carrier certificates which will be held by GACC when this transfer is completed were acquired under different sections of the PU Code. They will be considered as one

authority inasmuch as the certificate acquired under PU Code Section 1063.5 totally overlaps the certificate requested to be transferred by this application. We have held on numerous occasions that to the extent that one certificate duplicates in whole or in part any other certificated authority held by a carrier, such operative rights may not be separated to allow the sale or transfer of one or more of such duplicative rights or a portion of them and the retention of another certificated right to perform the same service. This requirement is specifically set forth in paragraph (2) of the PU Code Section 1063.5 certificate.

Findings of Fact

1. The proposed transfer of the certificate acquired by Seller under D.82950 would not be adverse to the public interest.

2. GACC is well-qualified and has sufficient financial resources to conduct the proposed operation.

3. The following order has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

Conclusion of law

1. The proposed transfer should be authorized.

2. A public hearing is not necessary.

3. This order should be effective on the date signed in view of the length of time that the matter has been pending.

The order which follows will provide that in the event the transfer is completed, the certificate held by Seller which was acquired by D.82950 will be revoked and an in lieu certificate in appendix form will be issued to GACC. The new certificate will not broaden or change the interstate or foreign commerce rights now held by Seller.

Only the amount paid to the State for operative rights may be used for 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. Joan C. Sloan, an individual doing business as D&J Transportation, may sell and transfer the operative rights specified in the application to GACC Express, Inc., a California corporation. This authority shall expire if not exercised by September 30, 1983 or within such additional time as the Commission may authorize.
2. GACC Express, Inc. 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 Joan C. Sloan'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. 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 GACC Express, Inc., a California corporation, authorizing it to operate as a highway common carrier, as defined in PU Code Section 213, between the points listed in Appendix A.

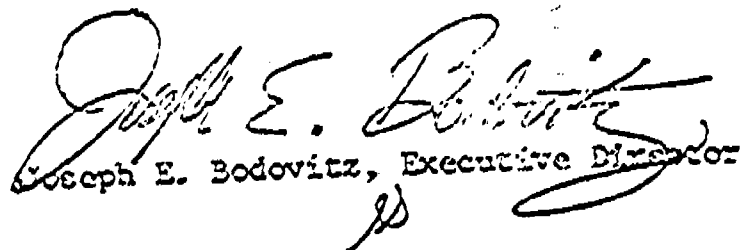
4. The certificate of public convenience and necessity granted by D.82950 is revoked on the effective date of the tariffs.

This order is effective today.

Dated MAY 18 1983, at San Francisco, California.

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

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

  
Joseph E. Bodovitz, Executive Director

GACC Express, Inc. by the certificate of public convenience and necessity granted in the decision noted in the margin, it authorized to conduct operations as a highway common carrier as defined in Public Utilities Code Section 213 for the transportation of general commodities between all points and places in San Francisco Territory as described in Note A.

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.
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. 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.
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. Articles of extraordinary value.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Commodities requiring special equipment and handling because of unusual size, weight or shape.

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

## 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; easterly along that 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 Company right-of-way to the Campbell-Los Gatos city limits; easterly along the city limits and their prolongation 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; northwesterly along Tully Road and its prolongation to White Road; northwesterly along White Road to McKee Road; southwestly 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 the 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 along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along the waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)