

ORIGINAL

Decision No. 87038

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of AAA TRUCKING CORPORATION OF )  
CALIFORNIA, to acquire Certifi- )  
cates of Public Convenience and )  
Necessity and for RELIABLE DELIV- )  
ERY SERVICE, INC., and its As- )  
signee, CREDIT MANAGERS ASSOCIA- )  
TION OF SOUTHERN CALIFORNIA, )  
INC., both corporations, to )  
transfer, pursuant to Section )  
851, et seq., of the California )  
Public Utilities Code. )

Application No. 56880  
(Filed November 16, 1976)

O P I N I O N

By their joint application herein, AAA TRUCKING CORPORATION OF CALIFORNIA (AAA), a California corporation (transferee), and RELIABLE DELIVERY SERVICE, INC. (RELIABLE), and its Assignee, CREDIT MANAGERS ASSOCIATION OF SOUTHERN CALIFORNIA, INC. (CREDIT), both California corporations (transferors), seek authority for AAA to purchase and acquire the various certificates of public convenience and necessity as a highway common carrier now held by RELIABLE and its Assignee, CREDIT. No other assets are involved.

The existing certificates and amendments thereto involved herein, which were originally granted to RELIABLE, are identified as follows:

1. Decision 74394 dated July 16, 1968 in Application 49630. (An in-lieu certificate granted to RELIABLE which consolidated and replaced all of its prior authorities.)
- a. Decision 75734 dated June 3, 1969 in Application 50993. (An amendment to Decision 74394 which excluded from RELIABLE'S certificate the transportation of refrigerated commodities, such authority having been transferred to another carrier, DESERT EMPIRE EXPRESS; The specialized transportation of "Trailer Coaches" was also excluded but not transferred.)

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- b. Decision 83747 dated November 26, 1974 in Application 55096. (An amendment to Decision 74394 which eliminated a prior restriction prohibiting service to points located on two key routes.)
2. Decision 82578 dated March 12, 1974 in Application 53952. (An additional certificate granted to RELIABLE which constituted an extension of the original certificate granted by Decision 74394.)

These certificates collectively authorize the transportation of general commodities, with specific exceptions, between points located within an area which generally encompasses the southwest and southeast corners of California and includes the cities of Tehachapi, Mojave, Victorville and Twentynine Palms on the north. The transportation of certain specified commodities is also authorized generally between points in the Los Angeles Basin Territory and points in Imperial County.

The application shows that subsequent to the demise of Babe Talsky, RELIABLE's principal stockholder, an "Assignment For the Benefit of Creditors," identified as Exhibit "B" in the application, was entered into on May 30, 1975, by the officers of RELIABLE in favor of CREDIT. Subsequently, on January 15, 1976, CREDIT and RELIABLE with BONSCO, INC., the parent company of AAA, entered into a "Sale and Purchase Agreement," included in the application as Exhibit "C", which indicates the purchase price of RELIABLE'S operating authorities to be \$175,000, which amount includes a down payment of \$17,500. The purchase price covers all of RELIABLE'S operating authorities, both intrastate and interstate, without any allocation between the two types of authorities. No other considerations are involved.

AAA proposes to acquire from RELIABLE (and its Assignee, CREDIT) all of the existing certificated highway common carrier authorities originally granted to RELIABLE by this Commission, some of which are registered with the Interstate Commerce Commission. RELIABLE and CREDIT, transferors, ask that the existing intrastate authorities identified above be reissued to AAA in the form of

a new in-lieu certificate. They also declare that, inasmuch as AAA is under the "common control" of BONSCO, INC., which company controls another multi-state motor carrier operating in interstate and foreign commerce on the east coast, an application to the Interstate Commerce Commission has been filed under Section 5 of the Interstate Commerce Act for the transferee to buy the transferors' Certificates of Registration and is now pending before that body in Docket No. MC-F-12891. Publication thereof was made in the Federal Register on July 29, 1976 and corrected on August 26, 1976. A related Section 207 application has also been filed with the I.C.C. to convert the Certificates of Registration into a conventional certificate of public convenience and necessity. If these applications are granted, AAA proposes to make concurrent consummation of the transfer of both the intrastate and the interstate operating rights involved. AAA does not currently possess any operating authority issued by this Commission.

Applicants state that a copy of this application was mailed to the California Trucking Association at their request. Notice of the filing of the application appeared in the Commission's Daily Calendar of November 19, 1976.

A letter of protest was received December 14, 1976 from Victorville-Barstow Truck Line, a competing certificated carrier, alleging (1) dormancy with respect to RELIABLE'S existing authority; and (2) diversion of its own traffic to a competitor should the transfer of RELIABLE'S authority to AAA be authorized.

In similar transfer proceedings, the Commission has consistently held that it is primarily concerned with determining whether the proposed transfer would be adverse to the public interest and not whether a new competing carrier (AAA) would cause significant diversion of traffic or would unbalance competition among the existing carriers. Said protest constitutes a collateral attack upon the decisions heretofore rendered by the Commission which found that public convenience and necessity supported the initial operation. The protest filed by Victorville-Barstow Truck Line will be denied.

The published tariff rates of RELIABLE were canceled in full by its agent, Western Motor Tariff Bureau, Inc., effective April 1, 1976. Since the application indicates that AAA, the transferee, plans to adopt the tariff rates previously published by its predecessor (RELIABLE), it will now be necessary for AAA to establish, publish and file its own tariffs of rates and charges which must be in compliance with the Commission's minimum rate orders and General Order 80-A.

After consideration, the Commission finds that:

1. This application is a matter over which the Interstate Commerce Commission has plenary jurisdiction and is, therefore, conditioned upon the prior approval of that Commission.
2. The proposed sale and transfer of the intrastate certificates would not be adverse to the California 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 order which follows will provide for, in the event the transfer is consummated, the revocation of the California certificates now held by RELIABLE and the issuance of an in-lieu certificate, in appendix form, to AAA. The territorial description and routes in the certificate reflect the names of redesignated highways or roads and do not in any way broaden or change the interstate or foreign commerce rights held by the carrier.

AAA 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 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 value of the rights to be transferred.

Filing fees in amount of \$900 were paid by applicant AAA to the Commission in connection with this application based on the transfer of six certificates. Since only two certificates are actually involved herein, the filing fee should only be \$300. A refund of \$600 will be made.

O R D E R

IT IS ORDERED that:

1. Upon approval of the transaction involved in this proceeding by the Interstate Commerce Commission and concurrent with the effective date thereof, RELIABLE DELIVERY SERVICE, INC. and its Assignee, CREDIT MANAGERS ASSOCIATION OF SOUTHERN CALIFORNIA, INC., both California corporations, may sell and transfer the operative rights granted or amended by this Commission in Decisions 74394, 75734, 83747 and 82578 to AAA TRUCKING CORPORATION OF CALIFORNIA, a California corporation.

2. Within thirty days after the transfer authorized in paragraph 1, AAA TRUCKING CORPORATION OF CALIFORNIA shall file with the Commission a written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. AAA TRUCKING CORPORATION OF CALIFORNIA shall re-issue and refile tariffs with the Commission naming rates and rules governing the common carrier operations transferred to show that it has established, as its own, such 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 establishment of the authorized service.

4. 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.

5. 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 AAA TRUCKING CORPORATION OF CALIFORNIA authorizing it 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 Appendix A, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted or amended by Decisions 74394, 75734, 83747 and 82578 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. AAA TRUCKING CORPORATION OF CALIFORNIA shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

8. AAA TRUCKING CORPORATION OF CALIFORNIA 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.

9. AAA TRUCKING CORPORATION OF CALIFORNIA shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If it

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elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

10. The sum of \$600 shall be refunded to applicant AAA TRUCKING CORPORATION OF CALIFORNIA for overpayment of filing fees.

11. The protest of Victorville-Barstow Truck Line filed December 14, 1976 is hereby denied.

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

Dated at San Francisco, California, this 1st day of March, 1977.

Robert Bateman  
President

William J. Quinn

Vernon L. Stinson

John

Richard D. Howell  
Commissioners

AAA Trucking Corporation of California, a corporation, by the certificate of public convenience and necessity granted by 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 following transportation:

- I. GENERAL COMMODITIES (with exceptions hereinafter noted) between all points located within the territory or county named; between said territory and points located on the highways designated, including points located within the specified lateral distances of such designated highways; or between said territory and certain specified points; and including service at intermediate points unless otherwise specified as follows: (See Note 1)

(NOTE 1. All references to lateral or radial mileage distances shown herein shall be construed to mean statute miles.)

1. Between all points located within the Los Angeles Basin Territory as described in NOTE A.
2. Between all points located within the Los Angeles Basin Territory and all points located on or within 5 miles laterally of the following highways:
  - (a) Interstate Highway 5 between the southerly limits of the Los Angeles Basin Territory and Chula Vista, inclusive;
  - (b) State Highway 78 between its junction with Interstate Highway 5 and Escondido, inclusive;
  - (c) Interstate Highway 15 between Escondido and San Diego, inclusive;
  - (d) Interstate Highway 8 between San Diego and El Cajon, inclusive;
  - (e) Interstate Highway 15 and U.S. Highway 395 between San Bernardino and Victorville, inclusive, including the off-route point of Hesperia;



- (f) State Highway 18 between San Bernardino and Victorville, inclusive;
  - (g) Interstate Highway 10 between the easterly limits of the Los Angeles Basin Territory and Indio, inclusive;
  - (h) State Highway 111 between its intersection with Interstate Highway 10 (near Whitewater) and the Riverside County - Imperial County Boundary Line (formerly identified as Durmid), inclusive;
  - (i) State Highway 62 between its intersection with Interstate Highway 10 (near Whitewater) and Twentynine Palms, inclusive, including the off-route point of Desert Hot Springs, but not including the U.S. Marine Corps Base near Twentynine Palms..
3. Between all points located within the Los Angeles Basin Territory and all points located on or within 10 miles laterally of the following highways:
- (a) Interstate Highway 5 and State Highway 14 between San Fernando and Mojave, inclusive;
  - (b) State Highway 58 between Keene and Four Corners (near Kramer Junction).
4. Between all points located within the Los Angeles Basin Territory and all points located on or within 10 miles laterally of the following highways:
- (a) State Highway 74 between Hemet and the junction of State Highways 74 and 111 (at Monterey Avenue, near Palm Desert); thence via Monterey Avenue to its junction with Park View Drive (near Rancho Mirage), both inclusive;
  - (b) State Highway 371 between its intersection with State Highway 79 (near Aguanga) and its intersection with State Highway 74 (located approximately 6 miles east of Anza), inclusive;

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- (c) State Highway 79 between its intersection with State Highway 371 (near Aguanga) and its intersection with Interstate Highway 15 (located approximately 1½ miles south of Temecula), inclusive.
5. Between all points located within the Los Angeles Basin Territory and all points located on or within 15 miles laterally of the following highways:
- (a) Interstate Highway 15 between Escondido and Temecula (Riverside County), inclusive;
  - (b) State Highway 86 between Coachella and Riverside County - Imperial County Boundary Line, inclusive.
6. Between all points located within the Los Angeles Basin Territory and the following named points (See NOTE 2):
- (a) Castaic and Pearblossom (both located in Los Angeles County);
  - (b) Inyokern, China Lake, Ridgecrest, Johannesburg and Randsburg (all located in Kern County); and
  - (c) Westend, Argus, Trona and Red Mountain (all located in San Bernardino County), inclusive.

NOTE 2. For service between the points designated in subparagraph 6 above, carrier may use the most direct or convenient highways or routes, but service at intermediate points is not authorized except at those points located on the access highways designated in subparagraph 3 above.

7. Between all points located in Imperial County.

II. GENERAL COMMODITIES, except those specifically excluded herein, between all points located in Imperial County and all points located in Los Angeles Basin Territory, subject to NOTES 3 and 4.

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- III. CEMENT, LIME OR PLASTER, as described under the generic heading "CEMENT GROUP" in Items 42100 through 42180 of the National Motor Freight Classification NMF 100-C, supplements thereto or successive issues thereof, between all points in Imperial County and the cities of Riverside, Crestmore and Colton, subject to NOTES 3 and 4.
- IV. CONDUITS, DRAIN TILE, SEWER PIPE OR RELATED ARTICLES, CLAY, CONCRETE OR EARTHEN, as described under the generic heading "CONDUITS, EARTHEN, GROUP" in Items 50500 through 50700 (Sub 7) of the National Motor Freight Classification NMF 100-C, supplements thereto or successive issues thereof, between all points in Imperial County and the city of Corona, subject to NOTES 3 and 4.
- V. COTTON or RELATED ARTICLES as described in Items 54170, 54230 and Items 54290 through 54410 (Sub 2) of the National Motor Freight Classification NMF 100-C, supplements thereto or successive issues thereof, between all points in Imperial County and all points located within a 25-mile radius of the cities of Blythe, Coachella and Hinkley, subject to NOTES 3 and 4.

NOTE 3. Except as otherwise provided herein, the authorities described in paragraphs II, III, IV and V above do not include the right to render service to, from or between intermediate points.

NOTE 4. Carrier shall not establish through routes and rates, charges or classifications with respect to the separate authorities described in paragraphs II, III, IV, and V above.

- VI. GENERAL COMMODITIES, except those specifically excluded herein:

FROM: All points and places authorized in paragraphs I through V above;

TO: The following: (Subject to NOTES 5 and 6)  
(a) Points on or within 5 miles laterally of:

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- (1) Interstate Highway 15 between Victorville and Yermo; and (2) Interstate Highway 15 and Interstate Highway 40 between Victorville and Newberry, both inclusive, and including the off-route point of Camp Irwin;
- (b) Points on or within 5 miles laterally of State Highway 58 between Four Corners (near Kramer Junction) and Barstow, inclusive;
- (c) Points on or within 5 miles laterally of U.S. Highway 395 between its junction with Interstate Highway 15 (approximately 9 miles north of Cajon Junction) and Four Corners (near Kramer Junction), inclusive;
- (d) Points on or within 5 miles laterally of State Highway 138 between its junction with Interstate Highway 15 (near Cajon Junction) and Pearblossom (in Los Angeles County), inclusive.

NOTE 5. No transportation for compensation on return movements is authorized under paragraph VI above except on those shipments which have been refused, returned or rejected by the consignee.

NOTE 6. Carrier is authorized to transport shipments of commodities produced from natural resources from Newberry (in San Bernardino County) to all other presently authorized points.

VII. Mechanical duplications and overlaps which occur in describing the operating authority granted herein shall not be construed as conferring more than one operating right to transport the same commodities between the same points.

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

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IX. Except where otherwise specifically noted and pursuant to the authority herein granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects not packed in salesman's hand sample cases, suit-cases, 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.
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.

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7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. FURNITURE, NEW OR USED, as described under the generic heading "FURNITURE GROUP" in the National Motor Freight Classification NMF 100-C, supplements thereto or successive issues thereof; Stoves; Refrigerators; and Lamp Standards or Electric Lamps and Shades when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped).
10. All commodities in bulk.
11. Articles of extraordinary value.
12. Commodities injurious or contaminating to other lading.
13. Commodities which require special equipment or handling because of their unusual size, weight or shape.
14. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.
15. 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

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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 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.

(END OF APPENDIX A)

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