

ORIGINAL

Decision No. 90521 JUL 3 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WTC SUB, a California corporation, to acquire a certificate of public convenience and necessity and assets from A & B TRANSPORTATION SERVICES, INC., a California corporation, in conformance with Section 5 order of the Interstate Commerce Commission.

Application No. 58646 (Filed January 31, 1979)

O P I N I O N

By the instant application, the parties request that this Commission authorize the transfer of the involved assets, good will, and operating authorities, conditioned upon the issuance of a transfer order by the Interstate Commerce Commission (ICC) in Docket No. MC-F-13704F. The ICC proceeding is unopposed and the grant of authority should be received within 45 days. The transfer involves control of an interstate carrier under Section 5 of the Interstate Commerce Act (49 U.S.C.A. Section 5(2)). Notice of the filing of the application appeared in the Commission's Daily Calendar dated Thursday, February 1, 1979.

A & B Transportation Services, Inc. (A & B) operates in California, Arizona, and Nevada, specializing in the transportation of hanging and cartoned garments, clothing, and wearing apparel. All of the outstanding stock of A & B, consisting of 874 shares of common stock is owned by Nelson Resource Corporation of New Jersey, which also owns three other interstate motor carriers.

WTC SUB is a California corporation and a wholly owned subsidiary of WTC., Inc. Neither the applicant, WTC SUB, nor its principal, WTC., Inc., holds any authority from this Commission.

WTC., Inc., however, owns and controls three other subsidiaries which operate under California certificates and permitted authority.

The application requests that the Commission's Rules of Practice and Procedure 21(f) and 37(a) concerning service on other carriers be waived, although a copy of the application was served on the California Trucking Association. It further requests that this order be issued ex parte, be made effective on the date it is signed, and authorize filing of necessary tariff publications on five (5) days' notice to the Commission and to the public; and that the transfer be authorized on the issuance of an order by ICC granting the application to transfer the operating authority and assets.

Findings of Fact

1. Applicant should be excused from the provisions of 21(f) and 37(a) of the Commission's Rules of Practice and Procedure.
2. Tariff publications should be made on five days' notice to the Commission and the public.
3. This transfer should not be approved until authority has been received from ICC.
4. A public hearing is not necessary.
5. The proposed transfer is not adverse to the public interest. ✓

Conclusions of Law

1. The application should be granted.
2. Sections 21(f) and 37(a) of the Commission's Rules of Practice and Procedure should be waived.
3. There have been no protests; therefore, this decision should be effective on the date issued.

Applicant 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.

O R D E R

IT IS ORDERED that:

1. Upon the filing with this Commission of a certified copy of a transfer order by the Interstate Commerce Commission in Docket No. MC-F-13704F, A & B Transportation Services, Inc. may sell and transfer the operative rights referred to in the application to WTC SUB. This authorization shall expire if not exercised within ninety days of receipt of authority from the Interstate Commerce Commission or in any event if not exercised on or before December 31, 1979.

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 No. 80-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 2 is completed, effective concurrently with the effective date of the tariff

filings required by paragraph 4, a certificate of public convenience and necessity is granted to WTC SUB, a corporation, 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 of this decision.

6. The certificate of public convenience and necessity granted by Decision No. 89429, as modified by Decision No. 89619, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 4.

7. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. 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 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.

9. Purchaser shall comply with the requirements of the Commission's General Order No. 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.

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10. The provisions of Sections 21(f) and 37(a) of the Commission's Rules of Practice and Procedure are waived.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 3rd day of JULY, 1979.

John E. Byrne  
President  
James J. Sullivan  
Joseph D. Kovalik  
Robert T. DeLoach  
Joseph W. Quinn  
Commissioners

WTC SUB, a California 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 the following:

I. Garments, clothing and wearing apparel when transported on garment hangers, matching accessories and other commodities incidental thereto, including costume or novelty jewelry, when shipped in van-type trucks in company with garments, clothing and wearing apparel on hangers.

Between all points and places within the Los Angeles Basin Area described in Note A, attached hereto and made a part hereof:

II. Hanging or cartoned garments, clothing and wearing apparel and component parts used in the manufacture thereof, as defined in Note B hereof, handbags and costume jewelry:

Between all points and places within the following described territory, or within 25 statute miles of any point therein:

Beginning at Mussel Point on Bodega Head following an imaginary line drawn northeasterly to the City of Marysville, thence southerly along State Highway 70 and continuing on State Highway 99 to its junction with State Highway 198; easterly on State Highway 198 to the junction of State Highway 65; southerly on State Highway 65 and continuing on State Highway 99, thence Interstate Highway 5 to the prolongation of the corporate boundary of the City of San Fernando; westerly and northerly along said prolongation and 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 and its prolongation to Interstate Highway 10; southerly and easterly along Interstate Highway 10 to the City of Indio; thence following an imaginary line southwesterly to San Ysidro; thence westerly

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along the International Boundary Line to the Pacific Ocean; thence northerly along the shoreline of the Pacific Ocean to the point of beginning.

Service under Paragraph II shall be restricted against transportation of shipments of wearing apparel on hangers, between the City of Los Angeles, on the one hand, and points in San Diego County, on the other hand.

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| <p>III. A. Apparel, wearing<br/>Bags, cloth<br/>Bags, hand<br/>Bath robes<br/>Belts<br/>Blouses<br/>Buttons<br/>Cloth<br/>Cloth, piece goods<br/>Clothing<br/>Clothing accessories<br/>Containers, clothes<br/>Draperies<br/>Dry goods<br/>Fittings, tailored<br/>Footwear<br/>Furnishings, men's<br/>Garments</p> | <p>Gloves<br/>Hangers, clothes<br/>Hosiery<br/>Jewelry, costume<br/>Lining, clothes<br/>Luggage<br/>Patterns<br/>Shirts<br/>Shoes<br/>Suspenders<br/>Tapes, cloth<br/>Textiles<br/>Thread<br/>Ties<br/>Towels<br/>Trimmings, tailored<br/>Umbrellas<br/>Yarns</p> |
|--|---|
- B. General Commodities not named above when transported:
- a. To or from retailers of garments, not including retailers which sell garments incidentally, such as (but not limited to) hardware stores, drug stores, grocery stores; and,
  - b. Between retailers of the commodities specifically named in Paragraph III-A above, wholesalers of the commodities specifically named in Paragraph III-A above, and manufacturers of the commodities specifically named in Paragraph III-A above; and
  - c. To or from fashion shows.

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1. Between all points and places within San Francisco Territory as described in Note C below and within five statute miles of the boundary thereof.
2. Between all points and places on and within five statute miles laterally of the following highways:
  - a. U.S. Highway 101 between San Francisco and Santa Rosa, inclusive;
  - b. State Highway 37 between Ignacio Junction and Sears Point, thence via State Highway 121 to Napa, including the off-route point of Sonoma.
  - c. Interstate Highway 80 between San Francisco and North Sacramento, inclusive;
  - d. State Highway 29 between the junction of said highway with Interstate Highway 80 and Napa, inclusive;
  - e. Between San Francisco and Sacramento, inclusive, via Interstate Highway 80, Interstate Highway 580; Interstate Highway 205, and Interstate Highway 5, including the off-route point of Pleasanton.
  - f. State Highway 4 between the junction of said highway with Interstate Highway 80 and Stockton, inclusive, including the off-route points of Port Chicago and Byron;
  - g. State Highway 24 between Oakland and its junction with State Highway 4 near Concord, thence via State Highway 4 to Pittsburg, inclusive, including the off-route point of Moraga;
  - h. Interstate Highway 680 between Warm Springs and Martinez, inclusive;

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- i. State Highway 99 between Stockton and Modesto, inclusive;
  - j. State Highway 33 between the junctions of said highway with Interstate Highway 5 near Tracy and State Highway 132 near Vernalis, inclusive; and
  - k. State Highway 132 between the junction of said highway with State Highway 33 near Vernalis and Modesto, inclusive.
3. Between all points and places within 10 statute miles of the City of Sacramento.
  4. Between all points and places within 10 statute miles of the City of Stockton.
  5. Between all points and places within 5 statute miles of the City of Santa Rosa.
  6. Except that pursuant to the authority herein granted carrier shall not transport any shipments of:
    - a. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesman'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).
    - b. 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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- c. 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.
  - d. 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.
  - e. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
  - f. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
  - g. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
  - h. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
- IV. 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.
- B. Service under Paragraphs I, II and III above shall be restricted against the transportation of fur, fur garments or fur wearing apparel, but not including imitation furs, imitation fur garments or wearing apparel or fur-trimmed cloth garments or wearing apparel.
  - C. Service under Paragraph III shall be restricted against transportation of property sold by a retail merchant from said retail merchant's store or warehouse to the purchaser thereof.

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## LOS ANGELES BASIN AREA

LOS ANGELES BASIN AREA includes all points within the following boundary:

Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southern boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said County boundary to a point thereon distant 5 statute miles east of the intersection of said County boundary and State Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 statute miles from State Highway 91, State Highway 55, Interstate Highway 5, Laguna Canyon Road, and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

## NOTE B

## PARAGRAPH II COMMODITIES

Aprons	Cloaks
Bathrobes	Coats
Bathing suits	Costumes
Bed jackets	Coveralls
Belts	Designs
Blouses	Dickies
Boleros	Dresses
Brassieres	Dungarees
Breeches	Elastics
Buckles, loops and slides	Embroidery
Buttons	Evening gowns
Button blanks	Eyelets and eyelet hooks
Caps	Fasteners, slide and snap
Capes	Fur

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## NOTE B (continued)

Fur coats	Piece goods, cut and uncut
Fur goods	Pinafores
Furs	Pins
Gloves	Petticoats
Gowns	Play suits
Guimpes	Polo shirts
Gym pants	Racks
Gym suits	Rainwear
Hampers	Riding breeches
Handkerchiefs	Robes
Hats	Rompers
Hangers, garments	Sarongs
Hooks and eyes	Shirts
Hoovers	Shoes
Hose supporters	Shorts
Hosiery	Ski pants
Housecoats	Skirts
House dresses	Slacks
Jackets	Slack sets
Jerkins	Slips
Jodphurs	Slipover sweaters
Jumpers	Smocks
Laces	Snow suits
Leggings	Sport jackets
Lingerie	Sport shirts
Lumber jackets	Sweaters
Maternity dresses	Suits
Measuring devices, tailoring	Sun suits
Mittens	Suspenders
Neckwear	Thimbles
Needles	Thread
Negligees	Ties
Nightgowns	Topcoats
Overalls	Trousers
Overcoats	Trunks
Outer water repellent garments	Underwear
Pajamas	Vestees
Pants	Water repellent garments
Patterns	Wraps
Pedal pushers	Zippers

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## NOTE C

## 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; thence easterly along said 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 said limits and the prolongation thereof 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; northeasterly along Tully Road and the prolongation thereof 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 said 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 said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

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