

Decision No. 90601 JUL 31 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CARTAGE SERVICE, INC., a corporation,)
 for authority to acquire a Certificate)
 of Public Convenience and Necessity)
 and IRVING SULMEYER, TRUSTEE, LOS)
 ANGELES CITY EXPRESS, INC., a corpora-)
 tion, to transfer same pursuant to)
 Sections 851-854 of the California)
 Public Utilities Code.)

Application No. 58698
(Filed February 20, 1979)

O P I N I O N

By this application Cartage Service, Inc. (purchaser), a corporation, 2427 East Fourteenth Street, Los Angeles, California 90021, requests authority to purchase, and Irving Sulmeyer, Trustee, Los Angeles City Express, Inc. (seller), a corporation, requests authority to sell, the certificate of public convenience and necessity issued to seller in D.79637 dated January 25, 1972, supplemented in D.79748 dated February 23, 1972, and modified in D.80897 dated January 3, 1973. Seller also performed operations pursuant to a certificate of registration issued by the Interstate Commerce Commission in Docket No. MC-97977 (Sub No. 4).

The certificate authorizes the transportation of general commodities with certain exceptions between points within the Los Angeles Basin Territory and between points in the Los Angeles Basin Territory, on the one hand, and all points on and within ten statute miles laterally of nine routes in northern Los Angeles County, western Riverside County and northern San Diego County, on the other hand.

By order dated December 1, 1977 in Bankruptcy No. 77-08979-RO in the United States District Court for the Central District of California, Los Angeles City Express, Inc. was adjudicated a bankrupt. Seller proposes to sell the certificate of public convenience and necessity for the sum of \$30,000, payable in one installment. Said \$30,000 has been paid to the Trustee pursuant to the order confirming

sale of personal property dated August 21, 1978, as amended by order dated September 29, 1978, all attached to the application as Exhibit C. Said sum is being held pending approval of this application. \$15,000 of the purchase price is allocated to the intrastate authority and \$15,000 is allocated to the interstate authority.

This application is made pursuant to Section 854 of the Public Utilities Code. Notice of the filing of the application appeared on the Commission's Daily Calendar of February 26, 1979. Notice of publication in the Federal Register appeared in the issue of May 4, 1979. No protests have been received.

Seller was a party to all Western Motor Tariff Bureau, Inc., Agent, tariff publications as were necessary for publication of rates to cover its operating rights both as to intrastate, interstate, and foreign commerce operations. Purchaser proposes to adopt those tariffs effective with the consummation of the proposed transfer.

It is alleged that this transfer is consistent with the public interest and will promote the same for the following reasons, among others:

- (a) Seller has been adjudicated a bankrupt and ceased operations as a for-hire carrier.
- (b) Purchaser is able, both financially and otherwise, to operate over the involved authority efficiently and render a service to the shipping public.
- (c) Purchaser holds a permit from this Commission in File T-107,211, and its personnel have had substantial experience in the trucking business.

Purchaser's unaudited balance sheet, as of September 30, 1978, shows that it had current assets of \$134,131 and current liabilities of \$69,571 for a current ratio of 1.93. Retained earnings shown on the balance sheet amount to \$138,794. An unaudited statement of income for the period October 1, 1977 to September 30, 1978 shows a net income of \$8,810. Purchaser's equipment list shows it has one tractor and four semitrailers.

Findings of Fact

1. Public convenience and necessity require that purchaser be authorized to engage in operations in intrastate commerce as proposed in the application and also require that purchaser be authorized to engage in operations in interstate and foreign commerce within limits

which do not exceed the scope of the intrastate operations authorized by this decision.

2. The new certificate issued to purchaser will not broaden or change the interstate or foreign commerce rights held by seller.

3. The proposed transfer will not be adverse to the public interest.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. A public hearing is not necessary.

Conclusions of Law

1. The sought-for transfer of the certificate of public convenience and necessity should be authorized.

2. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by seller and the issuance of a certificate in appendix form to purchaser.

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 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. Irving Sulmeyer, Trustee, Los Angeles City Express, Inc. (seller) may sell and transfer the operative rights referred to in the application to Cartage Service, Inc. (purchaser). This authorization shall expire if not exercised by September 1, 1979 or within such additional time as may be authorized by the Commission.

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. 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 purchaser, 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.

5. The certificate of public convenience and necessity granted by D.79637, 79748, and 80897 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 No. 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 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.

8. 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.

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

Dated JUL 31 1979, at San Francisco, California.

John E. Bryan
President
James L. Sullivan
Robert D. Gwalt
Clair T. Delight
Leonard J. ...
Commissioners

Cartage Service, Inc., 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 as follows:

1. BETWEEN all points and places within the Los Angeles Basin Territory as described in Note A attached hereto. (Subject to commodity restrictions 1 through 7.)
2. BETWEEN the Los Angeles Basin Territory, on the one hand, and, on the other hand, all points and places located on and along and within ten statute miles laterally of the following routes:
 - a. Interstate Highway 10 between Redlands and Indio, including Coachella, via State Highway 111, inclusive. (Subject to commodity restrictions 1 through 7.)
 - b. State Highway 60 between Riverside and Beaumont, inclusive. (Subject to commodity restrictions 1 through 7.)
 - c. State Highway 111 between the junction with Interstate Highway 10 near Whitewater, and Mecca, inclusive. (Subject to commodity restrictions 1 through 7.)
 - d. State Highway 62 (known as Twentynine Palms Highway) between the junction with Interstate Highway 10 near Whitewater, and Twentynine Palms, inclusive, (Subject to commodity restrictions 1 through 7.)
3. BETWEEN Los Angeles Basin Territory, on the one hand, and, on the other hand, all points and places located on and along the route from said territory via Interstate Highway 5 and State Highway 14 to and including Solemint, and all points and places located within ten statute miles laterally of said route with the exception of those points and places northerly of Solemint. (Subject to commodity restrictions 1 through 8.)

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4. BETWEEN all points and places on the following highways, including the off-route points within a lateral of ten statute miles of said highways:
- a. State Highway 74 between Hemet and Pinyon Flats, inclusive. (Subject to commodity restrictions 1 through 6 and 8 through 13.)
 - b. Riverside County Highway R-1 between the junction of said highway with State Highway 74 and Twin Pines Ranch (approximately 8 statute miles south of Banning), inclusive. (Subject to commodity restrictions 1 through 6 and 8 through 13.)
 - c. State Highway 71 between the junction of said highway with State Highway 74 and Aguanga. (Subject to commodity restrictions 1 through 6 and 8 through 13.)

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, 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. 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. Commodities which because of size or weight require special equipment or handling.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Logs.
11. Commodities likely to contaminate or damage other freight.
12. Articles of extraordinary value.
13. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

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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 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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