

ORIGINAL

Decision No. 91340 FEB 13 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of T.I.M.E.-DC, INC., a Delaware corporation, for authority to acquire a certificate of public convenience and necessity, and KERNER TRUCKING SERVICE, INC., a corporation, to transfer pursuant to Sections 851 to 854 of the California Public Utilities Code.

Application No. 59049
(Filed August 6, 1979;
amended November 7, 1979)

O P I N I O N

T.I.M.E.-DC, Inc., (purchaser), a Delaware corporation authorized to conduct business in the State of California, seeks authority to purchase and acquire and Kerner Trucking Service, Inc., (seller), a California corporation, seeks authority to sell and transfer a portion of a certificate of public convenience and necessity authorizing operations as a highway common carrier pursuant to an agreement which is attached to the application as Appendix B.

The certificate was granted by Decision No. 89986 dated February 14, 1979 in Application No. 57796 and authorizes the transportation of general commodities as follows:

- A. Between all points and places in the Los Angeles Basin Territory.
- B. Between all points and places in the San Diego Territory.
- C. Between all points in said Los Angeles Basin Territory, on the one hand, and all points in said San Diego Territory, on the other hand, serving all points and places on and within ten (10) statute miles laterally of Interstate Highways 5 and 15.

- D. Between all points and places in Paragraph C above and Goleta serving all points and places on and within ten statute miles laterally of U.S. Highway 101.

The authority is registered with the Interstate Commerce Commission in Docket No. MC-121634 (Sub No. 1). The portion of the certificate to be transferred to purchaser is set forth in Paragraphs B., C., and D. above.

Pursuant to the Agreement attached to the application, the total consideration is \$50,000 allocated as follows: \$25,000 for the intrastate authority and \$25,000 for the Interstate Certificate of Registration.

Purchaser presently holds a highway common carrier certificate pursuant to Decision No. 61030 dated November 7, 1960, as amended by Decision No. 75791 dated June 17, 1969.

A balance sheet attached to the application of purchaser and its subsidiaries as of December 31, 1978 discloses equity of \$37,078,000. Purchaser proposes to adopt the tariffs published by Western Motor Tariff Bureau, Inc., to which the seller is now a party.

A copy of the application was forwarded to the California Trucking Association and was noticed on the Commission's Daily Calendar of August 8, 1979. The amendment to the application was a restrictive amendment and was noticed on the Commission's Daily Calendar of November 13, 1979. No protests to the application have been received. On September 12, 1979 the Commission's Transportation Division staff advised it had reviewed the application and believes it is one which, in the absence of protest, may be granted by ex parte order.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. 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 certificates in appendix form to purchaser and seller.

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. Kerner Trucking Service, Inc. may sell and transfer the operative rights referred to in the application to T.I.M.E.-DC, Inc. This authorization shall expire if not exercised by June 30, 1980, or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer applicants shall file with the Commission written acceptance of the certificates, and the purchaser shall file with the Commission a true copy of the bill of sale or other instrument of transfer.
3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show that they have adopted or established, as their 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 shall comply with 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 certificates of public convenience and necessity are granted to T.I.M.E.-DC, Inc. and Kerner Trucking Service, Inc. authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendices A and B of this decision.

5. The certificates of public convenience and necessity granted by Decisions Nos. 61030 and 89986 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants are placed on notice that if they accept the certificates they will be required, among other things, to 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. Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Applicants shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicants elect not to transport collect on delivery shipments, they 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 FEB 13 1980, at San Francisco, California.

John E. Guyon
 _____ President

Verne J. Stinson

Robert W. Howell

Clarence T. Dedrick

_____ Commissioners

Commissioner Leonard M. Grimes, Jr., being necessarily absent, did not participate.

T.I.M.E.-DC, 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:

I. Between all points and places in the following territories.

- (a) All points and places in the San Francisco Territory as described in Note A hereof, on one hand and Los Angeles Basin Territory as described in Note B hereof, on the other hand.
- (b) All points and places in Los Angeles Basin Territory as described in Note B hereof.
- (c) All points and places in Sacramento Delta Region as described in Note C hereof.
- (d) All points and places in San Francisco Territory as described in Note A hereof, on the one hand, and the Sacramento Delta Region as described in Note C hereof, on the other hand.
- (e) All points and places in the Sacramento Delta Region, as described in Note C hereof, on the one hand, and Los Angeles Basin Territory, as described in Note B hereof, on the other hand.
- (f) Between all points and places in Los Angeles Basin Territory as described in Note B hereof, on the one hand and all points and places in the San Diego Territory as described in Note D hereof, on the other hand, and points intermediate thereto, including all points within 10 statute miles laterally of Interstate Highways 5 and 15.

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- (g) Between all points and places in the Los Angeles Basin Territory, as described in Note B hereof, on the one hand, and Goleta, on the other hand and all points and places within 10 statute miles laterally of U.S. Highway 101 between said points.
- (h) Between all points and places in San Diego Territory as described in Note D hereof.
- (i) All establishments, installations or premises in California which are actually in use by the United States Department of Defense, Army, Navy, or Air Force.
- (j) All points and places in California of the type described in paragraph (i) above, on the one hand, and all other points in California, on the other hand.

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 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).
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. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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.

The authority authorized in sub-paragraph (b) above is subject to the restriction that, except as elsewhere authorized herein, or as authorized in Decision 48899, no service shall be provided locally between two points both of which are located east of State Highway 39 and within Los Angeles Basin Territory.

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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; 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

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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.

Note B

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;

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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.

Note C

SACRAMENTO DELTA REGION

Sacramento Delta Region includes all points in and within twenty (20) statute miles of Sacramento, California, and all points on and within ten (10) statute miles on either side of the following highways:

- (a) U.S. Highway 101 between San Francisco and its junction with State Highway 37 at Ignacio, inclusive.
- (b) State Highway 37 between its junction with U.S. Highway 101 at Ignacio and its junction with Interstate Highway 80 northeast of Vallejo, inclusive.
- (c) Interstate Highway 80 between San Francisco and Sacramento, inclusive.
- (d) Interstate Highway 50 between Oakland and its junction with Interstate Highway 205 near Mountain House; thence via Interstate Highway 205 to its junction with Interstate Highway 205 (Business) near Tracy; thence via Interstate Highway 205 (Business) to its junction with Interstate Highway 5 near Banta; thence via Interstate Highway 5 to its junction with El Dorado Street near French Camp; thence via El Dorado Street to its junction with Charter Way in the City of Stockton; thence via Charter Way to its junction with State Highway 99; thence via State Highway 99 to Sacramento, inclusive.

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- (e) State Highway 24 between Oakland and its junction with State Highway 4 near Pacheco; thence via State Highway 4 to its junction with State Highway 160 near Oakley; thence via State Highway 160 to Sacramento, inclusive.
- (f) State Highway 4 between its junction with Interstate Highway 80 near Pinole and the City of Stockton.

Note D

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 U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S-17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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Between all points and places in Los Angeles Territory as described in Note A hereof.

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.
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.

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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. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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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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;

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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 B)

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