

Decision No. 92254 SEP 16 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
REPUBLIC INDUSTRIES, INC., to transfer )  
a certificate of public convenience )  
and necessity and assets to RISS )  
TRANSPORTATION CORPORATION and for )  
RISS TRANSPORTATION CORPORATION to )  
issue stock. )

Application No. 59483  
(Filed February 28, 1980)

**ORIGINAL**

O P I N I O N

Republic Industries, Inc. (Republic), doing business as Riss Transportation Co. and Riss International Corporation, has applied to transfer a highway common carrier certificate to Riss Transportation Corporation, a California corporation. The latter will acquire the certificate and seeks authority to issue 100 shares of \$1.00 par value capital stock to Republic in consideration of the transfer of assets by the latter.

The certificate was granted under Section 1063 of the Public Utilities Code (Code) by Decision No. 60454, amended by Decision No. 61920, in Application No. 41778, and transferred to Republic by Decision No. 83490 in Application No. 55063. The certificate to be transferred authorizes the transportation of general commodities, with certain exceptions, between points within an area from Novato and Red Bluff, on the north, to the California-Mexico border, on the south.

Republic also holds and operates under highway contract carrier and agricultural carrier permits issued in File No. T-96326 and as a highway common carrier under an operative right acquired through conversion of its former radial highway common carrier permit under Code Section 1063.5 (GC-3997). A form TL-707 application has been filed to request transfer of the permits from Republic to Riss Transportation Corporation.

It is alleged that the grant of authority will result in no change in ownership or control of the business, which is being transferred to a California corporation to ensure a more efficient operation. Notice of the application was printed in the Commission's Daily Calendar of March 3, 1980. No protests have been received.

Code Section 1064.5 provides that no certificate of public convenience and necessity issued pursuant to Section 1063.5 may be sold, mortgaged, leased, assigned, transferred, or otherwise encumbered for a period of five years after issuance, except to the extent of operations actually conducted in good faith, not including operations as a subhauler. ✓

The request in this proceeding is to transfer ownership from a parent company to a wholly owned subsidiary through the sale of capital stock, pursuant to Code Section 854. Commission Resolution No. 18049, dated July 31, 1979, states that trucking companies, in the normal course of business, may change or adjust their legal form, or undergo other transformations in continuation of going concerns where there is no substantial change in identity of beneficial owners. The Resolution concludes that transfers of Section 1063.5 certificates under fact situations described in the Resolution are not transfers of the type prohibited by Section 1064.5. The transfer contemplated by this application will result in no change in ownership or control; therefore, under paragraph b(4) of Commission Resolution No. 18049, it is not a transfer of the type subject to the provisions of Code Section 1063.5.

Findings of Fact

1. The proposed transfer of the certificate would not be adverse to the public interest.
2. The proposed stock issue would be for a proper purpose.
3. The money, property, or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. A public hearing is not necessary.
5. The proposed transfer is authorized under Code Section 854, and is not subject to the provisions of Code Section 1064.5.
6. The order which follows will provide, in the event the transfer is completed, for the revocation of the certificate presently held by Republic and for the issuance of a certificate in appendix form to Riss Transportation Corporation.

Conclusion of Law

The Commission concludes that Application No. 59483 should be granted to the extent provided in the order herein.

Riss transportation Corporation 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. Republic Industries, Inc. may sell and transfer the operative rights and property referred to in the application to Riss Transportation Corporation. This authorization shall expire if not exercised by October 15, 1980, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer the transferee 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. Transferee 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 and on not less than five days after the effective date of 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 Riss Transportation Corporation, 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 Decision No. 83490 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee 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. Applicant 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.

8. Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. On or after the effective date of this order and on or before October 15, 1980, for the purposes specified in this

TD-2

A.59483 ALJ/jn/hh \*

proceeding, transferee may issue not exceeding 100 shares of its common stock having a par value of \$1.00 per share.

The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be thirty days after the date hereof.

Dated SEP 16 1980, at San Francisco, California.

John E. Guyon  
President

William L. Satterman

Richard W. Howell

Clair J. DePaul

Edward J. King  
Commissioners

Riss Transportation Corporation, 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 general commodities as follows:

- I. Between all points in San Francisco Territory as described in Note A hereof.
- II. Between all points in Los Angeles Basin Territory as described in Note B hereof.
- III. Between all points on or within twenty (20) statute miles of the following routes.
  1. U.S. Highway 101 between Novato and the northern boundary of San Francisco Territory as described in Note A hereof, and between the southern boundary of said San Francisco Territory and the northern boundary of Los Angeles Basin Territory, as described in Note B hereof, each segment inclusive.
  2. State Highway 37 between its junction with U.S. Highway 101 near Ignacio, and its junction with Interstate Highway 80, near Vallejo, inclusive.
  3. State Highway 121 between Napa and its junction with State Highway 37 at Sears Point, inclusive.
  4. State Highway 29 between Napa and its junction with Interstate Highway 80, near Vallejo, inclusive.
  5. State Highway 12 between Schellville and its junction with State Highway 99, near Lodi, inclusive.
  6. Interstate Highway 80 between the eastern boundary of the San Francisco Territory as described in Note A hereof and the California-Nevada State Line, inclusive.
  7. State Highway 113 between its junction with Interstate Highway 80, near Davis, and its junction with State Highway 99 at Tudor, inclusive.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

8. State Highway 70 between Marysville and its junction with U.S. Highway 395 at Hallelujah Junction, inclusive.
9. State Highway 24 between the eastern boundary of the San Francisco Territory as described in Note A hereof, and its junction with State Highway 4, north of Concord, inclusive.
10. State Highway 4 between its junction with Interstate Highway 80, near Pinole, and Stockton, inclusive.
11. State Highway 160 between its junction with State Highway 4, near Oakley, and Sacramento, inclusive.
12. State Highway 16 between Sacramento and its junction with Interstate Highway 5, northwest of Sacramento, inclusive.
13. State Highway 89 between its junction with State Highway 70 at Blairsden and its junction with U.S. Highway 50 at Tahoe Valley, inclusive.
14. Interstate Highway 5 between Red Bluff and Sacramento; between Stockton and its junction with Interstate Highway 205; between Wheeler Ridge and the northern boundary of the Los Angeles Basin Territory; as described in Note B hereof, and between the southern boundary of the said Los Angeles Basin Territory and the International Border with Mexico; each segment, inclusive.
15. State Highway 99 between Red Bluff and its junction with Interstate Highway 5 at Wheeler Ridge, inclusive.
16. Interstate Highway 580 between the eastern boundary of the San Francisco Territory, as described in Note A hereof, and its junction with Interstate Highway 205, inclusive.
17. Interstate Highway 205 between its junction with Interstate Highway 580 and its junction with Interstate Highway 5, inclusive.
18. U.S. Highway 50 between Sacramento and the California-Nevada State Line, inclusive.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

19. State Highway 20 between Williams and its intersection with Interstate Highway 80, near Yuba Gap, inclusive.
20. State Highway 49 between Placerville and Sattley, inclusive.
21. State Highway 33 between its junction with Interstate Highway 5, near Vernalis, and Ventura, inclusive.
22. State Highway 166 between Maricopa and its junction with State Highway 99, near Mettler Station, inclusive.
23. State Highway 152 between its junction with State Highway 1, near Watsonville, and its junction with State Highway 99 at Fairmead, inclusive.
24. State Highway 132 between Vernalis and Modesto, inclusive.
25. State Highway 120 between its junction with Interstate Highway 5, and Manteca, inclusive.
26. State Highway 119 between Taft and Greenfield inclusive.
27. State Highway 46 between Paso Robles and Famoso, inclusive.
28. State Highway 58 between Bakersfield and Barstow, inclusive.
29. Interstate Highway 15 between Barstow and the California-Nevada State Line, inclusive.
30. Interstate Highway 10 between the eastern boundary of the Los Angeles Basin Territory, as described in Note B hereof, and the California-Arizona State Line, inclusive.
31. State Highway 86 between Indio and the International Border with Mexico inclusive.
32. State Highway 198 between its junction with State Highway 33, northeast of Coalinga, and its junction with State Highway 65, north of Exeter, inclusive.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

33. State Highway 65 between its junction with State Highway 198 and its junction with State Highway 99, north of Bakersfield, inclusive.
34. U.S. Highway 395 between Hallelujah Junction and the California-Nevada State Line; between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, south of Adelanto; Interstate Highway 15 (U.S. Highway 395) between its junction with U.S. Highway 395, and the northern boundary of the Los Angeles Basin Territory; as described in Note B hereof, and between the southern boundary of the said Los Angeles Basin Territory and San Diego; each segment inclusive.
35. State Highway 14 between its junction with Interstate Highway 5 south of Newhall and its junction with U.S. Highway 395, northwest of Inyokern, via Rosamond, inclusive.
36. U.S. Highway 6 between the California-Nevada State Line, north of Benton, and Bishop, inclusive.
37. Interstate Highway 40 between Barstow and its junction with National Trails Highway, near Ludlow; and between its junction with National Trails Highway, east of Fenner, and the California-Arizona State Line; each segment inclusive.
38. National Trails Highway between its junctions with Interstate Highway 40, near Ludlow, and east of Fenner respectively, inclusive.

## Restrictions:

1. No service is authorized to or from points along Interstate Highway 15 between Cajon Junction and Barstow, inclusive.
2. 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.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

- IV. 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.
  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.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Transportation of fresh fruits, nuts, vegetables and unprocessed agricultural commodities.
12. Transportation of any commodity, the transportation or handling of which because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, or streets, in any motor vehicle or combination of vehicles.

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.

## 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.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

## NOTE A (Continued)

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.

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.

## 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; 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)

Issued by California Public Utilities Commission.

Decision 92254, Application No. 59483.