

ALJ/jn

ORIGINALDecision No. 92402 NOV 4 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of WORLD SALES, INC., a
corporation, for authority to
acquire a Certificate of Public
Convenience and Necessity, and
REDWAY TRUCK & WAREHOUSE COMPANY,
a corporation, for authority to
transfer, pursuant to Sections
851 to 854 of the Public
Utilities Code.

Application No. 59718
(Filed June 11, 1980)

O P I N I O N

World Sales, Inc. (World), a California corporation, applied for authority to acquire a certificate of public convenience and necessity from Redway Truck & Warehouse Company (Redway).

Redway had been engaged in the transportation of general commodities by motor vehicle in intrastate and interstate and foreign commerce. Its intrastate authority had been granted by Decision No. 61816 dated April 11, 1961 in Application No. 43084, and also acquired in Decision No. 65620 dated July 2, 1963 in Application No. 45429. It is the subject of a co-extensive certificate of registration issued by the Interstate Commerce Commission in Docket MC 121213 dated October 9, 1964. World seeks to acquire only that authority granted to Redway in Decision No. 61816 and acquired by Redway in Decision No. 65620, and no permit authority is involved.

Redway also holds a highway common carrier certificate converted from its radial highway common carrier permit pursuant to Section 1063.5 of the Public Utilities Code effective April 30, 1980 in application GC 3923. It authorizes the transportation of general commodities between all points and places in the State of California.

The application states that due to financial difficulties, Redway placed its operating authorities in suspension and has no current financial statement available. The application alleges that Redway has been unable to operate profitably and therefore desires to get out of the trucking business, and World desires to reinstitute operations formerly conducted by Redway under Decisions Nos. 61816 and 65620.

World proposes to acquire the operating rights for a total sum of \$20,000, \$5,000 of which is in excrow, the balance to be due at the time of the confirmation. Half of the \$20,000 is allocated to the intrastate rights and the other half for the interstate Certificate of Registration.

A balance sheet for October 31, 1979 shows World as having total assets of \$456,073.71, total liabilities of \$52,246.81, and a total stockholders equity of \$164,712.18. The application states that World will conduct its operations from a warehouse of 240,000 square feet, including 2,000 square feet of office space. The warehouse has 34 doors for trucks and 12 doors for railcars. Redway proposes to provide six semi-trailers, four truck tractors, and two straight trucks for use in the operation.

Redway was a party to all Western Motor Tariff Bureau, Inc. tariff publications which are necessary for the publication of rates to cover its operating rights. It withdrew from those tariffs at the time it suspended its operating rights. World proposes to become a party to those same tariffs, effective with the consummation of the proposed transfers.

This application was published in the Commission's calendar at the time it was filed, and the application states that concurrently with its filing, a copy of it was sent to the California Trucking Association for publication in its periodical Caltrux. No protests have been filed.

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The two certificates held by Redway were acquired under different provisions of the Public Utilities Code. They are considered as one authority inasmuch as the certificate acquired under Section 1063.5 totally overlaps the certificate requested to be transferred by this application. We have held on numerous occasions that to the extent that one certificate duplicates, in whole or in part, any other certificated authority held by a carrier, such operative rights may not be separated to allow the sale or transfer of one or more of such duplicating rights or portions thereof and the retention of another certificated right to perform the same service. This requirement is specifically set forth in Paragraph 2 of the Section 1063.5 certificate. Accordingly, the certificated authority which is retained by Redway will be amended to reflect the transfer of the operating rights which are the subject of this application.

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 Redway and the issuance of a certificate in appendix form to World.

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

World 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.

Because there have been no protests, and because it is in the public interest to reestablish the transportation movements which are now in suspension, the effective date of this order should be the date it is signed.

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

O R D E R

IT IS ORDERED that:

1. Redway Truck & Warehouse Company may sell and transfer the operative rights (and property) referred to in the application to World Sales, Inc. This authorization shall expire if not exercised by March 31, 1981, 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 and seller shall amend or reissue the tariffs or adoption notice on file with the Commission, naming rates and rules governing the common carrier operations transferred or amended to show that they have adopted or established, as their own, the rates and rules. The tariff filings or adoption notice shall be made effective not earlier than five days after the effective day of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings or adoption notice shall be concurrent with the transfer. The tariff filings or adoption notice made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs or adoption notices 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 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 World Sales, Inc., 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 Decisions Nos. 61816 and 65620 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. The certificate of public convenience and necessity issued to Redway Truck & Warehouse Company pursuant to Section 1063.5 of the Public Utilities Code, effective April 30, 1980 in application GC 3923, is hereby amended as set forth in Appendix B hereof.

8. 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.

9. On or before the completion of the transfer, purchaser shall become a party to those same Western Motor Tariff Bureau, Inc. tariff publications that were necessary for publication of the rates to cover the intrastate operating rights of the seller under Decisions Nos. 61816 and 65620.

10. 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 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.

11. Purchaser shall comply with the requirements of the Commissioner'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 is the date hereof.

Dated NOV 4 1980, at San Francisco, California.

John E. Byron
President
Thomas L. Shegerson
Richard D. Howell
Alfred J. Sigurdson
Donald W. Smith
Commissioners

World Sales, 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:

Between all points and places in Los Angeles Basin Area 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.
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.

Issued by California Public Utility Commission.

Decision 92402, Application 59718.

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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A

LOS ANGELES BASIN AREA

Beginning in the County of Los Angeles at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to its intersection with Interstate Highway 405; northerly on Interstate Highway 405 to its intersection with Sepulveda Boulevard; northerly on Sepulveda Boulevard to its junction with Brand Boulevard; northeasterly on Brand Boulevard to its intersection with the corporate boundary of the City of San Fernando; northwesterly northeasterly and southeasterly around said corporate boundary to its intersection with McClay Avenue; northeasterly on McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles and San Bernardino National Forest Boundaries to State Highway 38; southwesterly along State Highway 38 to its junction with Bryant Avenue; southeasterly and southerly along Bryant Avenue to Yucaipa Boulevard; westerly along Yucaipa Boulevard to its junction with Interstate Highway 10; northwesterly on Interstate Highway 10 to its junction with Redlands Boulevard; northwesterly on Redlands Boulevard to its intersection with Citrus Avenue; westerly along Citrus Avenue and Brookside Avenue to Barton Road; westerly along Barton Road to its intersection with Interstate Highway 15E; southwesterly along Interstate Highway 15E to its junction with State Highway 91 in the City of Riverside; southwesterly on State Highway 91 to its junction with State Highway 55; southerly and southwesterly along State Highway 55 and a prolongation thereof to the shoreline of the Pacific Ocean; thence northwesterly, northerly and northwesterly along said shoreline to a point directly west of the junction of Sunset Boulevard and State Highway 1; easterly along an imaginary line from said point to the point of beginning.

(END OF APPENDIX A)

Issued by California Public Utility Commission.

Decision 92462, Application 59718.

Appendix B
Amendment to
Section 1063.5
Certificate

REDWAY TRUCK & WAREHOUSE COMPANY
(a California corporation)

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Redway Truck & Warehouse Company, by the certificate of public convenience and necessity issued pursuant to Section 1063.5 of the Public Utilities Code, under Application GC 3923, is authorized to conduct operations to the extent set forth in such certificate as a highway common carrier as defined in Section 213 of the Public Utilities Code, except within the following described territory:

Beginning in the County of Los Angeles at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to its intersection with Interstate Highway 405; northerly on Interstate Highway 405 to its intersection with Sepulveda Boulevard; northerly on Sepulveda Boulevard to its junction with Brand Boulevard; northeasterly on Brand Boulevard to its intersection with the corporate boundary of the City of San Fernando, northwesterly, northeasterly and southeasterly around said corporate boundary to its intersection with McClay Avenue; northeasterly on McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles and San Bernardino National Forest Boundaries to State Highway 38; southwesterly along State Highway 38 to its junction with Bryant Avenue; southeasterly and southerly along Bryant Avenue to Yucaipa Boulevard; westerly along Yucaipa Boulevard to its junction with Interstate Highway 10; northwesterly on Interstate Highway 10 to its junction with Redlands Boulevard; northwesterly on Redlands Boulevard to its intersection with Citrus Avenue; westerly along Citrus Avenue and Brookside Avenue to Barton Road; westerly along Barton Road to its intersection with Interstate Highway 15E; southwesterly along Interstate Highway 15E to its junction with State Highway 91 in the City of Riverside; southwesterly on State Highway 91 to its junction with State Highway 55; southerly and southwesterly along State Highway 55 and a prolongation thereof to the shoreline of the Pacific Ocean; thence northwesterly, northerly and northwesterly along said shoreline to a point directly west of the junction of Sunset Boulevard and State Highway 1; easterly along an imaginary line from said point to the point of beginning.

(END OF APPENDIX B)

Issued by California Public Utilities Commission, original issue
April 30, 1980, GC 3923.

Decision 92402, Application 59718.