

ORIGINAL

Decision No. 41226

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Reader Truck Lines, )  
 a corporation, to sell and transfer, )  
 and of Higgins Trucks, Inc., a )  
 corporation, (as Assignee of and )  
 substituted for R. P. Higgins, doing )  
 business as Standard Motor Express) Application No. 28919  
 to purchase and acquire certain )  
 highway common carrier operative )  
 rights authorizing transportation )  
 between certain points in Los Angeles, )  
 San Bernardino and Orange Counties. )

Glanz & Russell, by Arthur H. Glanz, for applicant, Reader Truck Lines.

F. W. Turcotte for applicants, Higgins Trucks, Inc., and R. P. Higgins.

Gordon & Knapp by Wyman C. Knapp, for Pacific Freight Lines and Pacific Freight Lines Express, Interested Parties.

R. Edward Burton, for Valley Motor Lines, Inc., Interested Party.

O P I N I O N

By their application as amended, Reader Truck Lines, a  
 corporation, seeks authority to transfer to Higgins Trucks, Inc.,  
 (which has been substituted for R. P. Higgins, as the purchaser),  
 and the latter proposes to acquire from the former, certain operative  
 rights under which Reader is authorized to provide a highway common  
 carrier service between certain points in Los Angeles, San Bernardino  
 and Orange Counties. The matter was submitted at a public hearing,  
 had before Commissioner Potter and Examiner Austin at Los Angeles on  
 January 12, 1948. Appearances as interested parties were entered by

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- (1) For brevity, Reader Truck Lines will be designated as Reader; Higgins Trucks, Inc., as Higgins; Pacific Freight Lines and Pacific Freight Lines Express, collectively, as Pacific Freight; and Valley Motor Lines, Inc., as Valley.
  - (2) The application, as originally filed, contemplated the transfer of the operative rights involved from Reader to R. P. Higgins, an individual doing business as Standard Motor Express. By the amended application, however, Higgins Trucks, Inc., a corporation, was substituted for R. P. Higgins as the proposed purchaser. With Reader's consent, R. P. Higgins' interest in the purchase agreement between himself and Reader, it appears, has been assigned to Higgins Trucks, Inc. R. P. Higgins owns substantially all of the outstanding capital stock of Higgins Trucks, Inc.

Pacific Freight Lines, Pacific Freight Lines Express and Valley Motor Lines, Inc. Though not appearing as a protestant, Pacific Freight raised certain objections to applicants' proposal. Valley, however, favored the granting of the application.

Applicants' showing was presented through the testimony of Harold Frasher, president of Valley and since December, 1947; also of Reader; through that of A. R. Reader, formerly president of Reader; and through that of R. P. Higgins. Pacific Freight called no witnesses in support of its position.

The application contemplates the transfer of certain highway common carrier operative rights, acquired by Reader, pursuant to Decisions Nos. 35387 and 38183,<sup>(3)</sup> respectively. By Decision No. 35387, Reader was authorized to acquire from T. I. Puie, doing business as Bellflower Transfer Co., an operative right authorizing operation as a highway common carrier between Los Angeles and Bellflower and intermediate points (subject to certain limitations), including Maywood, Bell, Vinvale, Downey, Hollydale, Clearwater and Hynes.

By Decision No. 38183, Reader was authorized to acquire from City Transfer and Storage Company certain operative rights which, in general, extend between Los Angeles and various points in Los Angeles and Orange Counties, and the westerly portion of San Bernardino County. These, in turn, had been acquired by City Transfer and Storage Company pursuant to Decisions Nos. 7571, 12692, 17594 and 32281. Some of these operative rights authorize the transportation of general commodities, while others fix limitations on commodities and minimum loads.

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(3) Decision No. 35387, rendered May 19, 1942, in Application No. 24874.

Decision No. 38183, rendered August 28, 1945, in Application No. 26727.

Reader also conducts a highway common carrier service between Los Angeles and Los Angeles Commercial Zones, on the one hand, and Hanford Area points, on the other hand. <sup>(4)</sup> Authority to transfer this operative right to Valley is sought in Application No. 28864, which was heard concurrently with the present application.

Under an agreement between Reader and R. P. Higgins, dated November 24, 1947, and thereafter assigned to Higgins Trucks, Inc., the former has agreed to transfer to the latter the operative rights referred to above, in consideration of the payment of \$20,375. This sum is payable in two installments, viz., \$2,000 upon execution of said agreement, and the remainder amounting to \$18,375, immediately upon approval of the transfer by the Commission. The purchase price of \$20,375, it was shown, is identical to the price originally paid by Reader when it acquired these operative rights from T. I. Buie and from City Transfer and Storage Company, respectively. The operative rights alone would be transferred to Higgins, no tangible property being involved.

Since November 1947, Reader has been controlled, through stock ownership, by interests which also control Valley. Reader's capital stock is now owned by United Motor Transport Lines, Inc., a corporation controlled by Valley's stock holders. United, it appears, is not engaged in any public utility operation, and therefore, is not subject to regulation by this Commission.

The reasons underlying the proposal to transfer these operations were described by Harold Frasher, president of both Reader and Valley. Following the acquisition of the Los Angeles-Hanford certificate (as contemplated in Application No. 28864), Valley's lines, he testified, would be extended to Los Angeles, and that carrier

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(4) A certificate authorizing the performance of this service was granted to Reader by Decision No. 39,666, rendered November 26, 1946, in Application No. 26544.

would serve the Los Angeles area directly. Valley plans to interchange traffic with other motor carriers serving the Los Angeles territory locally, under joint rates which would be established. If Valley were competing with these carriers for the local movement, the consummation of these arrangements might be difficult to accomplish, he stated. Moreover, Reader's Los Angeles terminal assertedly is inadequate to accommodate the traffic which Valley expects to handle. Consequently, so Fresher stated, it has been decided to dispose of the local operations which Reader now conducts between Southern California points.

Higgins' qualifications to provide the service, as well as its future plans, were described by its president, R. P. Higgins. For many years it has operated as a highway common carrier engaged in the transportation of specified commodities in general between Los Angeles, Vernon, Huntington Park, Maywood, Bell, South Gate and so-called "county-strip" territory as defined in Decisions Nos. 33817 and 35406 in Application No. 23293. The operative rights sought to be acquired by Higgins would be consolidated with its present rights. This carrier, it was shown, is financially able to provide the service contemplated under its proposal. The substitution of Higgins Trucks, Inc., for R. P. Higgins as the purchaser of these operative rights, it was shown, would prevent any unnecessary duplication of operations and facilities, and would promote the more efficient use of equipment. (5)

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(5) At present, R. P. Higgins individually operates as a permitted carrier, and Higgins Trucks, Inc., as a certificated carrier, both using the same offices. If R. P. Higgins obtained the Reader operations, as originally proposed in this proceeding, both he and Higgins Trucks, Inc., would serve the same territory, to a large degree. Duplication of facilities would be avoided, possibility of errors prevented and efficiency of service promoted, it was shown, by permitting Higgins Trucks, Inc., to acquire these operative rights as proposed in the amended application.

Pacific Freight called no witnesses in support of its opposition to applicants' proposal. It contends, however, that approval of the transfer sought in this proceeding would result in the splitting or division of an operative right, contrary to the Commission's declared policy.

The operative rights which Reader now holds authorize the performance of highway common carrier service between various points in Los Angeles, Orange and San Bernardino counties, specified above; and between Los Angeles, Los Angeles Commercial Zones and the Hanford Area. Only the operations in Los Angeles, Orange and San Bernardino Counties would be acquired by Higgins, under the present application. In another proceeding (Application No. 28864) Valley proposes to acquire the Los Angeles-Hanford operation.

The two operations, generally described above, derive from different certificates. The Commission has never authorized nor required their consolidation and they do not coincide except at certain points in the Los Angeles Commercial Zones. A. R. Reader, formerly president of Reader, testified that in actual practice the operations always had been conducted separately. Under Section 50-3/4 of the Public Utilities Act consolidation of operative rights is permissible, not mandatory, and the consolidation of operative rights is discretionary with the carrier. The facts of record show no consolidation of the operations of Reader ever was made. Therefore, no division of operative rights is involved here.

Upon consideration of all the facts of record, we find that the public interest will not be adversely affected by the approval of the transfer of the operative rights with which we are here concerned. Accordingly, the application will be granted. However, the

action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been duly submitted, and the Commission being now fully advised in the premises,

IT IS ORDERED as follows:

(1) That, after the effective date hereof and on or before April 30, 1948, Reader Truck Lines may transfer to Higgins Trucks, Inc., and the latter may acquire from the former the highway common carrier operative rights heretofore acquired by Reader Truck Lines pursuant to the authority of the Commission's Decision No. 35387 in Application 24874 and Decision No. 38183 in Application No. 26727 and Higgins Trucks, Inc., may thereafter operate thereunder.

(2) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate and concurrently making effective appropriate tariffs and time tables after the effective date hereof and on or before April 30, 1948, on not less than one day's notice to the Commission and the public.

(3) That in the event applicants consummate the transfer as authorized, Higgins Trucks, Inc., within 30 days thereafter, shall file with the Commission a true copy of any bill of sale or other

instrument of transfer executed, and a copy of the journal entries whereby it records the purchase price on its books.

The effective date of this order shall be 20 days from the date hereof.

Dated at Los Angeles, California, this 17<sup>th</sup> day of February, 1948.

R. I. Johnson

Grant Russell

Harold A. Kula

Samuel Lott  
COMMISSIONERS