

Decision No. 41613

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
INTERCITY TRANSPORT LINES, INC., a )  
corporation, to sell, and HIGHWAY )  
TRANSPORT EXPRESS, a corporation, )  
to purchase the operating rights of )  
INTERCITY TRANSPORT LINES, INC. as )  
an express corporation between San )  
Francisco Bay points, on the one hand, )  
and points south thereof, on the )  
other hand. )

Application No. 29276

O P I N I O N

In this application the Commission is requested to authorize Intercity Transport Lines, Inc. to sell and transfer to (1) Highway Transport Express, a corporation, and the latter requests authority to purchase from the former, operative rights asserted to authorize the transportation of property as an express corporation, as defined in Section 2(k) of the Public Utilities Act, generally embracing the territory between San Francisco Bay points, on the one hand, and San Jose and intermediate points, on the other hand.

According to the application Intercity, on March 31, 1948, entered into an agreement with Joseph Robertson under which Intercity proposes to sell to said Joseph Robertson, or his assignee, said operative rights. Joseph Robertson has assigned said agreement to applicant Highway which at the time of said agreement had not been organized. According to Exhibit "C", attached to the application, the agreed purchase price for the operative right is

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(1) Intercity Transport Lines, Inc. and Highway Transport Express will herein be referred to as Intercity and Highway, respectively.

\$12,500 of which \$2,500 in cash is to be paid to the seller within 15 days after approval of the transaction by the Public Utilities Commission, and the remainder of the purchase price is to be paid in twelve equal monthly installments without interest within twelve months from the effective date of the order herein.

The application states that Intercity is now and for some time has been, and on August 1, 1933, and prior thereto, was engaged in business as an express corporation between San Francisco Bay points, on the one hand, and San Jose and intermediate points, on the other hand, pursuant to tariffs on file with the Commission prior to August 1, 1933, together with revisions and reissues thereof, and succeeding tariffs. The Commission has never been called upon to determine the extent of this operative right. Gross operating revenues for the months of April, May, July and October of 1947, are reported as \$1,301.73, \$1,078.34, \$1,076.24 and \$1,221.89, respectively. Gross operating revenues for selected and typical weeks of January, February, March and April, 1948, are stated to have been \$189.06, \$191.89, \$162.16 and \$120.75, respectively.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the request of applicants is not adverse to the public interest and should be granted as herein provided. The order made herein by the Commission, however, shall not be construed to be a finding of the extent of the express corporation operative rights of Intercity, but as an order authorizing it to transfer only such operative rights as it may have. Neither shall the action taken herein be construed to

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(2) August 1, 1933, is the critical date, after which no one may engage in business as an "express corporation" without first having obtained a certificate of public convenience and necessity from the Public Utilities Commission. (Re Intercity Transport Lines, Inc. et al, 39 C.R.C. 242).

be a finding of the value of said operative rights.

Highway Transport Express is hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

An application having been filed requesting authority to transfer operative rights, the Commission now being fully informed in the premises and good cause appearing,

IT IS ORDERED:

(1) That on or after the effective date hereof and on or before August 1, 1948, Intercity Transport Lines, Inc. may transfer to Highway Transport Express, and the latter may acquire from the former, and thereafter operate thereunder, the operative rights referred to in the foregoing opinion.

(2) That on or after the effective date hereof, appropriate tariffs as required by Tariff Circular No. 2 shall be filed in triplicate to be made effective on not less than 5 days' notice to the Commission and the public.

(3) That within 30 days after the consummation of the

transfer herein authorized Highway Transport Express shall notify the Commission, in writing, of that fact and shall within said period file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect said transfer.

This order shall become effective 20 days from the date hereof.

Dated at San Francisco, California, this 18th day of May, 1948.

R. Z. [Signature]  
Justice J. [Signature]  
[Signature]  
Harold P. [Signature]  
[Signature]  
COMMISSIONERS