

**ORIGINAL**Decision No. 51419

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 OSBOURN TRUCKING COMPANY, a corporation, )  
 to sell, and ATLANTIC TRANSFER CO., ) Application No. 36829  
 a corporation, to purchase, a certificate )  
 of public convenience and necessity. )

O P I N I O N

Osborn Trucking Company, a California corporation, hereinafter referred to as Seller, seeks authority to sell and transfer its highway common carrier operating right which it acquired by Decision No. 50710, dated October 26, 1954. The right was created by Decision No. 48038, in Application No. 31630, as amended by Decision No. 50087. Generally the certificate of public convenience and necessity authorizes the transportation of general commodities, with the usual exceptions, between points in the Counties of Los Angeles, San Bernardino, Riverside and Orange. Seller also operates as a permitted carrier and has common carrier authority issued by the Interstate Commerce Commission.

The buyer, Atlantic Transfer Co., is a California corporation, now operating as a permitted carrier principally in the Los Angeles area. It holds the following permits:

Radial Highway Common Carrier Permit No. 19-43196  
 Highway Contract Carrier Permit No. 19-43197  
 City Carrier Permit No. 19-43198  
 Household Goods Carrier Permit No. 44806.

The agreement of sale provides for the payment of \$5,000 cash concurrently with the consummation of the transfer of said operating right following approval of this Commission. No other property is being sold or transferred.

Seller alleges that it has not been able to integrate its operations and that it proposes to confine its future business to the interstate service which it has been performing for several years. Seller is not a party to any through routes or joint rates as to the service proposed to be transferred.

For the month of January 1955 Seller operated at a loss of \$4,439.16 on revenue of \$21,828.67 and expenses of \$26,267.83.

The management and personnel of applicant Atlantic Transfer Co., hereinafter called Buyer, is experienced in the trucking business in the area it now proposes to serve as a common carrier. Buyer owns and operates 24 trucks, 5 tractors, 15 trailers and 2 miscellaneous pieces of equipment. It maintains terminal and office facilities at three locations in the City of Los Angeles. It is alleged that the facilities and equipment now operated are adequate for the operation it desires to acquire. Its financial condition as of February 28, 1955 was as follows: total assets \$151,042.31; total liabilities \$75,903.98; and net worth of \$75,138.33 represented by capital stock outstanding of \$25,000 and earned surplus of \$50,138.33.

For the period of August 1, 1954 to February 28, 1955 Buyer operated at a loss of \$7,768.14. However, during said period operating income was \$26,069.61, the net loss being the result of a loss on sale of capital assets in the amount of \$33,837.75.

As justification for the proposed purchase Buyer alleges that it has been conducting trucking operations for many years and that the acquisition of the said operating right will enable it to expand its present operation and to better serve the public.

On November 15, 1954 Atlantic Transfer Co. filed an application for a certificate of public convenience and necessity, Application No. 36481, wherein it requests operating authority as a highway common carrier of general commodities, with the usual exceptions, between points in the same four Counties as hereinabove named. It is proposed to dismiss said application upon approval of the sale and transfer as herein requested.

The Commission having considered the matter, finds that the proposed sale and transfer is not adverse to the public interest and therefore the application will be granted. A public hearing is not deemed necessary.

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

Atlantic Transfer Co. 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 as to the number of rights which may be given.

O R D E R

Application having been made, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Osbourn Trucking Company, a California, corporation, may sell and transfer, on or before sixty days after the effective

date of this order, to Atlantic Transfer Co., a California corporation, the highway common carrier operating right referred to in the foregoing opinion, said sale to be made substantially upon the terms and conditions of the agreement of sale filed as Exhibit A with the application, and the latter corporation may acquire said operating right and continue said transportation service as heretofore authorized by this Commission.

(2) That, within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall amend tariffs on file with the Commission naming rates, rules and regulations governing the operations here involved to show that Osbourn Trucking Company has withdrawn and Atlantic Transfer Co. has adopted as its own said rates, rules and regulations.

(3) That in the event the authority herein granted is exercised, Atlantic Transfer Co. shall notify the Commission in writing of the fact within thirty days after the date of transfer.

(4) That concurrently with the consummation of the sale and transfer as hereinabove authorized applicant Atlantic Transfer Co. shall file a written request with this Commission for the dismissal of Application No. 36481.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 3rd day of Mass, 1955.

John L. Mitchell  
President  
Arthur J. Caldwell  
Paul H. ...  
...  
Commissioners