

Decision No. 54053**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
MERVYN M. COMSTOCK, an individual )	
doing business under the firm name )	
of SMITH'S TRANSFER, of Manteca, )	Application No. 38452
California, to transfer Certificate )	
of Public Convenience and Necessity, )	
and property, to NAVAJO FREIGHT )	
LINES, INC., a corporation. )	

O P I N I O N

Mervyn M. Comstock, doing business as Smith's Transfer, requests authority to sell, and Navajo Freight Lines, Inc., requests authority to purchase the former's operative rights and equipment.

The seller presently operates as a highway common carrier of general commodities between Stockton and Manteca in both intrastate commerce and interstate commerce. The purchaser is an interstate carrier between points in California and points and places east thereof. The Interstate Commerce Commission has already authorized the proposed transfer.

A copy of the agreement attached to the application indicates a total consideration of \$15,000. A value of \$4,000 is placed upon the interstate operative rights, a value of \$1,000 is placed upon the intrastate operative rights, including good will, and a value of \$10,000 is placed upon six pieces of equipment and office furniture.

According to the agreement, \$1,000 is payable upon the execution of the agreement, \$4,000 upon the approved transfer of the interstate operative rights and the balance within 15 days after the final approval of the Interstate Commerce Commission and of this Commission.

After consideration, the Commission is of the opinion and so finds that the purchaser is financially capable of conducting the proposed operation and that the sale and transfer will not be adverse to the public interest. The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

Navajo Freight Lines, Inc., is hereby 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, 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 filed and the Commission being informed in the premises;

IT IS ORDERED:

(1) That after the effective date hereof and on or before March 1, 1957, Mervyn M. Comstock, doing business as Smith's Transfer, may sell and transfer and Navajo Freight Lines, Inc., may purchase and acquire the operative rights created by Decision No. 35008, dated February 10, 1942, in Application No. 24636 and the property referred to in Exhibit D attached to the application.

(2) That after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicant shall amend tariffs on file with this Commission naming rates,

rules and regulations governing the common carrier here involved to show that Mervyn M. Comstock, doing business as Smith's Transfer, has withdrawn and Navajo Freight Lines, Inc., has adopted as its own said rates, rules and regulations.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of NOVEMBER, 1956.

*Robert E. Mitchell*  
President  
*Paul R. ...*  
*...*  
*R. Hardy*

Commissioners

Commissioner *C. Lynn Fox* did not participate in the disposition of this proceeding.