

Decision No. 54915

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
INTERCITY TRANSPORT LINES, INC. and )  
HAROLD M. HAYS AND ALAN G. MCLENEGAN, )  
a partnership doing business as Inter- )  
city Transport Lines for authority )  
to enter into a Lease of certain )  
operative right. )

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Application No. 34023  
(First Supplemental)

In the Matter of the Application of )  
INTERCITY MOTOR LINES, a corporation, )  
to sell and INTERCITY FAST FREIGHT, a )  
corporation, to buy highway common )  
carrier operating rights, and of INTER- )  
CITY FAST FREIGHT for approval of con- )  
ditional sale contract and to issue )  
stock. )

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Application No. 38928

O P I N I O N

The above-entitled proceedings involve the reorganization of the operations of Intercity Motor Lines and Intercity Transport Lines, Inc., and Harold M. Hays and Alan G. McLenegan, who control the two corporations through stock ownership, and the establishment of Inter-City Fast Freight, a new corporation, in the business of transporting commodities as a highway common carrier.

Intercity Motor Lines is the owner of certificates of public convenience and necessity granted by the Interstate Commerce Commission, radial and contract permits, and certificates granted by this Commission for the transportation of commodities as a highway common carrier generally between San Francisco Bay points and Arcata, its traffic consisting primarily of express moving under

the express operative rights of Intercity Transport Lines, Inc. The last named corporation owns express rights covering generally the same territory served by Intercity Motor Lines which rights, however, it has leased to Harold M. Hays and Alan G. McLenegan under authorization granted by Decision No. 48302, dated February 4, 1953.

Inter-City Fast Freight is the new corporation which was organized by E. W. Elliott, under the laws of California, on or about January 25, 1957, for the purpose of undertaking transportation operations. It and the other interested parties have entered into two agreements, dated February 21, 1957, and have undertaken to make other arrangements providing for the following actions, among other things:

1. Intercity Motor Lines will transfer all its operative rights and goodwill to Inter-City Fast Freight for the sum of \$125,000 by means of a conditional sale contract providing for a down payment of \$30,000 and for deferred payments of the remaining \$95,000 over a period of 120 months with interest at the rate of 5% per annum.

2. Inter-City Fast Freight will place 28 units of equipment in the operations at the outset and will issue and sell, for cash, \$45,000 par value of stock to pay, in part, for such equipment and to provide working capital.

3. Harold M. Hays and Alan G. McLenegan will terminate their lease of the express operative rights and will sell the outstanding shares of stock of Intercity Transport Lines, Inc., to E. W. Elliott for the sum of \$65,000.

4. Intercity Transport Lines, Inc., will resume its express operations, will provide pickup and delivery equipment and will issue and sell, for cash, \$15,000 par value of stock to provide working capital.

The program outlined herein appears to have been made necessary by the financial condition in which Intercity Motor Lines now finds itself. The applications clearly show the carrier has suffered reverses and is in a difficult financial situation as a result and it seems quite likely that without relief the operations will be interrupted or impaired and the company will be unable to meet its obligations. The applications further show, on the other hand, that those in control of the new organization are willing to invest substantial sums of money in the enterprise, that they will provide modern equipment and a considerable amount of cash working capital, that they are experienced in the transportation business and that they should be in a position to finance the acquisition and to develop the service to the benefit of the shippers.

Upon a full review of these applications, we are of the opinion, and so find, that the transfer of operative rights will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes indicated herein, that such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income, that the execution of the conditional sale contract providing for deferred payments is reasonably required by Inter-City Fast Freight for the purpose of consummating the purchase, and that we are warranted in entering an order approving the requests of the applicants.

Our order shall not be construed to be a finding of the cost or value of the operative rights nor as authorization to capitalize them in excess of the amount allowed by law. Applicants are 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.

One further matter requires the attention of the Commission and that is the C.O.D. collections which have not been remitted by Intercity Motor Lines. We observe that the down payment under the conditional sale contract will be deposited in escrow with Western Title Insurance and Guaranty Co. and we will require, as a condition precedent to the authorization herein granted, that Intercity Motor Lines supplement the escrow instructions with a full and complete list of the unremitted C.O.D. payments and with a directive to the title company to pay such amounts out of the sum deposited with it.

O R D E R

The Commission having considered the above-entitled matters and being of the opinion that a public hearing is not

necessary and that the applications should be granted, as herein provided,

IT IS HEREBY ORDERED:

1. That Harold M. Hays and Alan G. McLenegan and Intercity Transport Lines, Inc., may execute the agreement to terminate lease which is filed as Exhibit 1 to the First Supplemental Application No. 34023 and may carry out the terms of such agreement.

2. That Intercity Transport Lines, Inc., may issue and sell not exceeding \$15,000 par value of common stock, for cash, on or before December 31, 1957, for the purpose of providing working capital.

3. That Intercity Motor Lines may transfer its operative rights and goodwill to Inter-City Fast Freight under the terms set forth in Application No. 38928 and in the conditional sale contract attached thereto as Exhibit 1. Intercity Motor Lines and Inter-City Fast Freight may execute and enter into such conditional sale contract and carry out its terms.

4. That Inter-City Fast Freight may issue and sell not exceeding \$45,000 par value of common stock, for cash, on or before December 31, 1957, for the purposes of financing the cost of equipment and of providing working capital.

5. That applicants shall, effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Harold M. Hays and Alan G. McLenegan, doing

business as Intercity Transport Lines, have withdrawn or canceled and Intercity Transport Lines, Inc., has adopted or established, as its own, said rates, rules and regulations.

6. That applicants shall, effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Intercity Motor Lines has withdrawn or canceled and Inter-City Fast Freight has adopted or established, as its own, said rates, rules and regulations.

7. That in the place and stead of Intercity Motor Lines, Inter-City Fast Freight is substituted as the party to all joint rates presently maintained by Intercity Motor Lines and on file with the Commission.

8. That Intercity Transport Lines, Inc., and Inter-City Fast Freight shall file reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

9. That the authority herein granted will become effective when (1) Inter-City Fast Freight has paid the fee prescribed by Section 1904(b) of the Public Utilities Code,

which fee is \$95, and (2) Intercity Motor Lines has filed with the Commission a copy of its escrow instructions as indicated in the opinion preceding this order.

Dated at Los Angeles, California,  
this 30<sup>th</sup> day of April, 1957.

[Signature]  
President  
[Signature]  
[Signature]  
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[Signature]  
Commissioners

