

55374

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JACK J. CONNELLY, an individual doing)
 business as MARINE TRANSPORT CO.,) Application No. 39169
 to transfer certificate of public)
 convenience and necessity to MARINE)
 TRANSPORT COMPANY, a corporation.)

O P I N I O N

Jack J. Connelly, an individual doing business as Marine Transport Company, has authority from this Commission to render service as a highway common carrier,^{1/} as defined in Section 213 of the California Public Utilities Code, for the transportation of general commodities between:

- A. All points within the Los Angeles Basin Territory as described in Appendix B attached to Decision No. 53732, dated September 4, 1956, in Application No. 36106.
- B. Los Angeles and Vernon, on the one hand, and Oceanside and San Diego, on the other hand.
- C. Los Angeles, on the one hand, and Oxnard, Ventura and Santa Barbara, on the other hand.

The authorities set forth in paragraphs B and C do not include the right to render service to, from or between intermediate points.

Applicant shall not establish through routes and joint rates, charges and classifications as to the separate authorities hereinabove set forth in paragraphs A, B and C.

Applicant shall not transport any shipments of:

^{1/} Decision No. 53732, dated September 4, 1956, in Application No. 36106, as modified by Supplemental Order, Decision No. 54440, dated January 29, 1957, in Application No. 36106.

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses; viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

By the application herein, filed on June 20, 1957, the Commission is requested to authorize Jack J. Connelly to sell, and Marine Transport Company, a California corporation, incorporated on December 3, 1954, (see Exhibit A on the application) to purchase the described operative right for the sum of \$10 cash.

As the reason for the proposed transfer it is alleged that prior to the receipt by the seller of authority as a highway common carrier he had long considered the advisability of incorporating his business and determined it would be advantageous to do so prior to the issuance of such authority and on December 3, 1954, he had caused the corporation to be formed. It is further alleged that at that time he was a permit carrier and not subject to the jurisdiction

of the Public Utilities Commission (sic); that he applied to the Commissioner of Corporations for issuance of stock in consideration for the transfer to the corporation of substantially all of his motor carrier assets; that said permit was granted, and stock was issued in conformity with the said permit, and substantially all of the assets of the seller were transferred to the corporation; that any certificate granted was intended to be transferred to the corporation.

The purchaser appears to be in a sound financial condition^{2/} and to have a sufficient amount of equipment with which to conduct operations.^{3/} It is alleged that the seller is not a party to any through routes or joint rates.

In our opinion the proposed sale is not adverse to the public interest. The application will be granted. A public hearing is not necessary. The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

Marine Transport Company, a corporation, 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.

^{2/} Exhibits B and C in the application.

^{3/} Exhibit D in the application.

O R D E R

Application having been made, the Commission being fully advised in the premises and having found that the proposed transfer is not adverse to the public interest and that the requested authority should be granted,

IT IS ORDERED:

(1) That Jack J. Connelly may sell and transfer to Marine Transport Company, a corporation, his operative right hereinabove described for the sum of \$10 payable at the time of or prior to the completion of such transfer, and said corporation may acquire said operative right.

(2) That within thirty days after the consummation of the transfer herein authorized, the purchaser shall notify the Commission in writing of that fact.

(3) That effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, applicant shall 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 Jack J. Connelly, an individual doing business as Marine Transport Company, has withdrawn, or cancelled, and Marine Transport Company, a corporation, has established as its own, said rates, rules and regulations.

The authority herein granted shall become void if not exercised within sixty days after the effective date hereof.

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

Dated at San Francisco, California,
this 5th day of August, 1957.

W. L. ...
W. L. ... President

...

R. ...

E. ...

Commissioners