

ORIGINAL

Decision No. 55851

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CONSOLIDATED FREIGHTWAYS,
INC. to acquire the Highway Common
Carrier and Petroleum Irregular Route
operating rights of LAMB TRANSPORTATION
COMPANY

Application
No. 39562

O P I N I O N

This is an application for an order authorizing Lamb Transportation Company, a corporation, to transfer operative rights to Consolidated Freightways, Inc., and granting such other relief as may be necessary.

Both corporations are engaged in business as highway carriers in interstate commerce and both are the owners of certificates of public convenience granted by this Commission for operations within the state.^{1/} They have applied for, and have received, authorization from the Interstate Commerce Commission permitting the merger of the operative rights and properties of Lamb Transportation Company into Consolidated Freightways, Inc., and they now desire to implement such authorization with the necessary California regulatory approval of the transfer of the intrastate operative rights.

^{1/} Lamb Transportation Company is authorized to operate interstate in portions of California, Arizona and Nevada and Consolidated Freightways, Inc., is authorized to operate generally between the west coast states and points as far east as Chicago, Illinois.

The intrastate operative rights to be transferred were acquired by Lamb Transportation Company from predecessors pursuant to authorization granted by Decision No. 50896, dated December 28, 1954, and by Decision No. 53566, dated August 7, 1956, as amended by Decision No. 54114, dated November 19, 1956. In general, they permit operations as a highway common carrier of certain commodities and of certain petroleum products in the middle and southern portions of the state and as a petroleum irregular route carrier throughout the state. The agreed transfer price of the intrastate operative rights is \$2,500.

The Commission has considered this application and is of the opinion, and so finds, that the transfer will not be adverse to the public interest and that an order should be entered granting the transfer of the intrastate operative rights and properties. In making this order the Commission places applicants 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.

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.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary and that the application should be granted; therefore,

IT IS HEREBY ORDERED as follows:

1. Lamb Transportation Company may transfer and convey to Consolidated Freightways, Inc., its intrastate highway common carrier and petroleum irregular route carrier operative rights and properties.

2. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants 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 Lamb Transportation Company has withdrawn or canceled and Consolidated Freightways, Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

3. The authority herein granted will become effective on the date hereof.

4. Dated at San Francisco, California, this 19th day of November, 1957.

[Signature]
President
[Signature]
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Commissioners