

ORIGINAL

Decision No. 57340

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GEORGE C. SMITH, JR., doing business)
as SMITH TRANSPORTATION COMPANY)
(successor to MARJORIE DUARTE, an)
individual, doing business as OXNARD)
TRANSPORTATION CO.), for a Certificate)
of Public Convenience and Necessity)
establishing operations as a common)
carrier for the transportation of)
property.)

Application No. 36407
(Amended)

Donald Murchison, for Marjorie Duarte, applicant.
Glanz & Russell, by Theodore W. Russell, for
George C. Smith, Jr., applicant.
H. J. Bischoff, for Carr Bros-Oxnard Trucking
Service, California Motor Transport, California
Motor Express, Fields Transportation Co. and
Mission Drayage Co.; John B. Robinson, for
Southern California Freight Lines, protestants.
E. M. Peak and Herb Griley, for Griley Security
Freight Lines, interested party.

O P I N I O N

Marjorie Duarte and George C. Smith, Jr., have filed a joint petition to substitute George C. Smith, Jr., as applicant herein in place of Marjorie Duarte. Attached to the petition is an agreement of purchase and sale, as amended, between Marjorie Duarte and George C. Smith, Jr.. The agreement provides for the transfer from Marjorie Duarte to George C. Smith, Jr., of all her right, title and interest in and to a radial highway common carrier permit, highway contract carrier permit and a city carrier permit heretofore issued her by the Commission, together with good will of the transportation business conducted under said permits and all her interest in the within application. The consideration therefor is the sum of \$6,000, the sum of \$1,100 having been paid upon execution

of the agreement with the balance of \$4,900 being payable upon the issuance of an order of authorization by the Commission. The Commission finds that authorizing such transfer will not be adverse to the public interest. The Commission in so doing makes no finding of the value of the operative rights, business and good will here involved. The petition will be granted and George C. Smith, Jr., doing business as Smith Transportation Company, will be referred to as the applicant herein.

Applicant is engaged in the transportation of property in California pursuant to a certificate of public convenience and necessity and permits issued by this Commission.

Applicant seeks an order authorizing him to conduct service as a highway common carrier for the transportation of general commodities between the Los Angeles Area as described in the application, Burbank, Glendale and South Gate, on the one hand, and Goleta, on the other hand, including certain intermediate points and between such area, on the one hand, and Fillmore, Santa Paula, Saticoy, Montalvo, Somis and Moor Park, on the other hand. A public hearing was held before Examiner John Power in Los Angeles on April 15, 1958.

Notice of the filing of the application was given all common carriers subject to the jurisdiction of this Commission.

Upon consideration of the allegations of the application, the evidence adduced at hearing, and the representations filed pursuant to the above mentioned notice, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. It appears that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed operation.

Applicant 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled 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

A public hearing having been held and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED that:

(1) George C. Smith, Jr., be and he is, substituted as applicant herein in the place and stead of Marjorie Duarte.

(2) George C. Smith, Jr., is authorized to carry out the provisions of an agreement with Marjorie Duarte substantially in the form of Exhibit A to the petition for substitution of applicant on file herein, as said agreement was modified by an amendment thereto executed by the parties on September 6, 1958.

(3) Within thirty days after completion of the transfer herein authorized, George C. Smith, Jr., shall notify the Commission in writing of that fact and within said period shall file with the Commission a true copy or copies of the instrument or instruments executed to effect the transfer.

(4) Upon acquisition of the business of Marjorie Duarte as provided by paragraph (2) and making the filing required by paragraph (3) of this order, a certificate of public convenience and necessity is granted to George C. Smith, Jr., authorizing him to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points and over the routes as more particularly set forth in Appendix A attached hereto and made a part hereof.

(5) In providing service pursuant to the certificate herein granted, George C. Smith, Jr., shall comply with and observe the following service regulations:

- (a) Within sixty days after the effective date hereof, George C. Smith, Jr., shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, George C. Smith, Jr., is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.
- (b) Within ninety days after the effective date hereof, and on not less than ten days' notice to the Commission and to the public, George C. Smith, Jr., shall establish the service

herein authorized and file in triplicate,
and concurrently make effective, tariffs
satisfactory to the Commission.

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

Dated at San Francisco, California, this
15th day of September, 1958.

E. Lynn Fox
President

Robert D. Smith

Paul W. Lawrence

William J. ...

Theodore Jenner
Commissioners

George C. Smith, Jr., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, between:

(1) The Los Angeles Area described as follows:

bounded on the north by the Los Angeles City Limits; on the east by the Los Angeles City Limits and Church Street; on the south by Southern Avenue, Alameda Street and 120th Street; and on the west by Vermont Avenue; and Cities of Burbank, Glendale and South Gate, on the one hand, and Goleta, on the other hand, including all intermediate points between Goleta on the north, and the Naval Air Missile Test Center at Point Mugu and Camarillo, inclusive, on the south, via U. S. Highways 101 and 101 Alternate.

(2) The Los Angeles Area described above, on the one hand, and Fillmore, Santa Paula, Saticoy, Montalvo, Somis and Moor Park, on the other hand, via U.S. Highway 101 and State Highways 126 and 118.

The authority set forth in Paragraph 2 does not include the right to render service to, from or between points intermediate between the said Los Angeles Area, on the one hand, and Fillmore, Santa Paula, Saticoy, Montalvo, Somis and Moor Park, on the other hand.

Issued by California Public Utilities Commission.

Decision No. 57250, Application No. 36407.(Amended).

Applicant shall not transport any shipments of:

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.

8. Logs.

Issued by California Public Utilities Commission.

Decision No. 57840, Application No. 36407 (Amended).

END OF APPENDIX "A"