

ORIGINAL

Decision No. 58666

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
LIBERTY FREIGHT LINES, a corporation,
to transfer certificate of public
convenience and necessity to ARTHUR
W. BAXTER, an individual.

Application No. 41091

O P I N I O N

Liberty Freight Lines, a corporation, requests authority to sell and Arthur W. Baxter requests authority to purchase certain certificated rights as a highway common carrier as well as operating equipment.

The operative rights were granted by Decision No. 55380 and authorized the transportation of limited commodities such as bags, batteries, cleaning compounds, lard, meats, prunes, soap, and vegetable oil between Los Angeles and the San Francisco territory.

According to the terms of a copy of the sales agreement attached to the application a consideration of \$65,500 will be paid for 42 pieces of equipment. No value is placed upon the operative rights. Said consideration will be paid at the rate of \$5,000 a year until 1963 when the balance will be due and payable. In addition thereto and commencing March 31, 1960, the buyer agrees to pay an amount by which one half of any annual net profit exceeds \$5,000. No interest is payable upon the unpaid balance of principal provided it is paid when due.

It is alleged that seller desires to discontinue operating as a commercial hauler and that buyer has been employed by seller for a number of years and is thoroughly familiar with such operations.

As of December 31, 1958, buyer indicated a net worth of \$4,838.54.

After consideration the Commission is of the opinion and so finds that the proposed sale would not be adverse to the public interest, public hearing is not necessary and the money, property or labor to be procured or paid for pursuant to said sales agreement is reasonably required for the purpose specified and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

Arthur W. Baxter 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, 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

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

(1) That on or before September 1, 1959, Liberty Freight Lines may sell and transfer, and Arthur W. Baxter, may purchase and acquire, the operative rights granted in Decision No. 55380, dated August 5, 1957, in Application No. 36385 as well as the property specified in Exhibit A attached to the application according to the terms set forth therein.

(2) That, within thirty days after the consummation of the transfer herein authorized, the purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(3) That, on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved, to show that Liberty Freight Lines, has withdrawn or canceled, and Arthur W. Baxter, has adopted or established as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

(4) That the authority herein granted shall become effective when Arthur W. Baxter has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$66.

Dated at San Francisco, California, this 23rd day of June, 1959.

L. Fox President
ate K. K. Hill
W. K. K. K. K.
Theodore K. K. K.
Edward W. K. K. Commissioners

