

Decision No. 58889**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SUBURBAN FREIGHT LINES, INC., a)
 corporation, to sell; and SWIFT)
 TRANSPORTATION COMPANY, a corporation,)
 to purchase, a certificate of public)
 convenience and necessity.)

Application No. 41371

OPINION AND ORDER

The Commission is requested to authorize Suburban Freight Lines, Inc., which is engaged in the transportation of specified commodities as a highway common carrier (Decision No. 52771) between the Los Angeles Area, on the one hand, and Pomona, Ontario, Riverside and San Bernardino, on the other hand, to transfer such operative right to Swift Transportation Company.

The application sets forth allegations which may be summarized as follows:

1. That the purchase price for the transfer of the operative right is the sum of \$300, cash, payable in full on or before seven days after the effective date of an order by the Commission authorizing the proposed transfer.

2. That Swift Transportation Company for many years has been and now is transporting property pursuant to a radial highway common carrier permit issued by the Commission.

3. That the two active individuals in Suburban Freight Lines, Inc., to wit, Harry G. Arnesen and F. Helen Arnesen are in poor health and desire to be relieved of the burden and responsibility of managing the corporation's operations which are of such scope and character as to require their full time active participation.

4. That Swift Transportation Company possesses the financial ability, equipment, shops and terminals to render the service within the area delineated by the certificate, authority to transfer which is sought herein.

5. That the public interest will be better served by Swift Transportation Company.

6. That Suburban Freight Lines, Inc., is not a party to through routes and joint rates with any other carrier.

7. That Swift Transportation Company will continue operating on the same schedules and at the same rates as presently conducted and maintained by Suburban Freight Lines, Inc.

The Commission, upon consideration of all the allegations of the application and the exhibits thereto attached, finds and concludes that the public interest will not be adversely affected by approval of the transfer of the operative right here involved.

The application will be granted. No finding is made as to the value of such operative right. A public hearing is not necessary.

Swift Transportation Company is placed on notice that it cannot engage in the transportation of property as a highway common carrier and as a radial highway common carrier over the same routes or between the same points.

Swift Transportation Company is further 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.

An application having been filed and based upon the evidence therein contained,

IT IS ORDERED:

1. That, on or before November 30, 1959, Suburban Freight Lines, Inc., may sell and transfer and Swift Transportation Company, a corporation, may purchase and acquire the operative right referred to in the application in accordance with the terms of the agreement attached thereto as Exhibit "A-1".

2. That, within thirty days after the consummation of the transfer herein authorized, Swift Transportation Company 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 operations here involved to show that Suburban Freight Lines, Inc., has withdrawn or canceled, and Swift Transportation Company 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.

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

Dated at San Francisco, California, this 18th day of August, 1959.

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