

ORIGINAL

Decision No. 59684

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) AZTEC TRANSPORTATION CO., INC.
for authority to issue shares of its
common capital stock pursuant to
Section 816-830 of the California
Public Utilities Code.

(b) JOHN R. CHAMBERLAIN, HARRY C.
FLESHER, SAMUEL H. COON and REID
C. NECKER, co-partners, doing
business as AZTEC TRANSPORTATION
COMPANY, to sell, and AZTEC
TRANSPORTATION CO., INC., a
corporation, to purchase a highway
common carrier operating right for
the transportation of property
between San Diego and points and
places in Southern California
pursuant to Section 851-853 of
the California Public Utilities
Code.

Application No. 41862

O P I N I O N

This is an application filed on January 15, 1960, for an order of the Commission (1) authorizing John R. Chamberlain, Harry C. Flesher, Samuel H. Coon and Reid C. Necker, co-partners, doing business as Aztec Transportation Company, to sell and transfer their highway common carrier operating right, equipment and other assets to Aztec Transportation Co., Inc., a California corporation organized on or about September 24, 1959, and (2) authorizing said corporation to issue 400 shares of its common capital stock without par value on the basis of \$35 per share in exchange for said assets and to assume payment of liabilities.

By Decision No. 59245, dated November 10, 1959 in Application No. 41290, the Commission granted a certificate of public convenience and necessity to John R. Chamberlain, Harry C. Flesher, Reid C. Necker and Sam Coon, doing business as Aztec Transportation Company, authorizing them to operate as a highway common carrier for the transportation of property consisting of specific commodities in portions of San Diego County. The partners have caused the formation of a new corporation, Aztec Transportation Co., Inc., to which they propose to transfer said certificate and their other assets in exchange for \$14,000 stated value of capital stock.

A proposed balance sheet of Aztec Transportation Co., Inc., as of October 1, 1959, summarized from Exhibit B-1 attached to the application, is as follows:

<u>Assets</u>	
Current assets	\$ 5,274.29
Net fixed assets	15,087.75
Other assets	<u>1,101.10</u>
Total	<u>\$21,463.14</u>
<u>Liabilities and Capital</u>	
Current liabilities	\$ 7,463.14
Capital stock	<u>14,000.00</u>
Total	<u>\$21,463.14</u>

After consideration the Commission is of the opinion, and so finds, that the proposed transfer will not be adverse to the public interest, that there will be no change in the rates to be charged to the public as a result of the transfer, that the money, property or labor to be procured or paid for by the issue

of the stock herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

Applicants are 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.

The action taken herein shall not be construed to be a finding of the value of the operating right and other assets herein authorized to be transferred.

ORDER

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, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. John R. Chamberlain, Harry C. Flesher, Samuel H. Coon and Reid C. Necker, may sell and transfer to Aztec Transportation Co., Inc., which corporation may purchase and acquire, the certificate of public convenience and necessity and other properties referred to herein.

2. Aztec Transportation Co., Inc., in acquiring said certificate and properties may assume the payment of outstanding liabilities and may issue not to exceed 400 shares of its common capital stock without par value on the basis of \$35 per share, on or before May 31, 1960.

3. 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, or to be filed, with the Commission naming rates, rules and regulations governing the operations here involved to show that John R. Chamberlain, Harry C. Flesher, Samuel H. Coon and Reid C. Necker have withdrawn or canceled and Aztec Transportation Co., 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.

4. Aztec Transportation Co., Inc., shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. For accounting purposes only, applicants are authorized to use an effective date of October 1, 1959.

6. This order shall become effective on the date hereof.

Dated at San Francisco, California, this 16th day of FEBRUARY, 1960.

Elliott R. Bell
President
John E. Mitchell
William H. Bush
E. J. Fox
Theodore H. Jenner
Commissioners