

Decision No. 61658**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 RICHARD F. McCURDY and RICHARD F.
 McCURDY, JR., co-partners doing
 business under the trade name of
 McCURDY & SON TRANSPORT SERVICE,
 to sell, and B.B.D. TRANSPORTATION
 CO., INC., a California corporation,
 to purchase a certificate of public
 convenience and necessity.

Application No. 42990

O P I N I O N

By this application Richard F. McCurdy and Richard F. McCurdy, Jr., doing business as McCurdy & Son Transport Service, seek authority to sell and transfer to B.B.D. Transportation Co., Inc., a California corporation, the certificate of public convenience and necessity acquired by them by Decision No. 56592.

The seller is retiring from the certificated highway common carrier business. Buyer is now operating a substantial transportation business as a permitted carrier.^{1/} As of October 31, 1960, the latter's financial condition was as follows: Total Assets, \$249,299.80; Total Liabilities, \$186,661.58; Net Worth, \$62,638.22, represented by Capital Stock, \$50,000, and Earned Surplus of \$12,638.22. For the first ten months of 1960 its net

^{1/} At present B.B.D. Transportation Co., Inc., holds Radial, Contract and City carrier permits Nos. 19-46950, 19-46951 and 19-53693, respectively. Richard F. McCurdy, as an individual, has City Carrier permit No. 19-52992, and Richard F. McCurdy and Richard F. McCurdy, Jr., copartners, doing business as McCurdy & Son Transport Service, have Radial and Contract carrier permits Nos. 19-31948 and 19-38350, respectively.

profit was \$5,816.86. Buyer owns and operates twenty tractors, twenty-eight trailers, and one company car.

Seller has discontinued its business as a certificated highway common carrier due to the suspension of the operating authority. The property which is the subject of this application consists of the certificate and some old accounts. No tangible property is involved and purchaser is not assuming any obligations of the seller. The consideration being paid for said assets is \$5,000 cash plus an additional sum, not to exceed \$35,000, based on a percentage of and contingent upon the amount of business buyer derives from seller's old customers. The portion of the selling price allocated to the certificate is \$1,500. The balance is for so-called good will.

By the Commission's order in Decision No. 58559, the certificate herein sought to be transferred was suspended, pending the further order of this Commission, for lapse of insurance. The certificate is still under suspension pursuant to said order.

By the Commission's order in Decision No. 60155 said certificate was conditionally revoked for not having schedules of rates and classifications on file. However, the revocation was stayed by the filing of a timely response and supplemental response as provided in said order.

In the meantime the seller, having decided to discontinue its certificated highway common carrier transportation operation, filed this application.

The Commission having considered the matter is of the opinion, and finds, that the proposed sale and transfer is not adverse to the public interest. The application will be granted as hereinafter set forth. A public hearing is not deemed necessary.

The action taken herein shall not be construed to be a finding of the cost or value of the operating rights and property proposed to be transferred.

B.B.D. Transportation Co., Inc., 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.

For clarification the above-mentioned orders of suspension and revocation, being still subject to this Commission's order, will be rescinded, and, for further clarification, a new certificate of public convenience and necessity will be granted to B.B.D. Transportation Co., Inc., in place and stead of the certificate heretofore granted in Decision No. 56592, which certificate will be revoked.

O R D E R

Application having been made, the Commission being fully advised in the premises and having found facts as hereinabove set forth, and good cause appearing,

IT IS ORDERED:

1. That on or before sixty days after the effective date of this order, Richard F. McCurdy and Richard F. McCurdy, Jr., copartners, may sell and transfer, and B.B.D. Transportation Co., Inc., a corporation, may purchase and acquire, the operative rights and property referred to in the application for the consideration stated.

2. That within thirty days after the consummation of the transfer herein authorized, B.B.D. Transportation Co., Inc., 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 such 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 herein involved to show that Richard F. McCurdy and Richard F. McCurdy, Jr., have withdrawn or canceled, and B.B.D. 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 with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. That effective concurrently with the effective date of tariff filings required by paragraph 3 hereof, the certificates of public convenience and necessity granted to Richard F. McCurdy and Richard F. McCurdy, Jr., doing business as McCurdy & Son Transport Service, by Decision No. 56592, dated April 22, 1958, in Application No. 36438, is hereby revoked and canceled, and simultaneously therewith, a certificate of public convenience and necessity is hereby

granted to B.B.D. Transportation Co., Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendices A and B, attached hereto and made a part hereof.

5. That in providing service pursuant to the certificate granted in paragraph 4 hereof, B.B.D. Transportation Co., Inc., shall comply with and observe the following service regulations:

(a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.

6. That Decisions Nos. 58559 and 60155, dated June 8, 1959 and May 24, 1960, respectively, in Application No. 36438, are hereby vacated and set aside.

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

Dated at San Francisco, California, this 14th day of March, 1961.

[Signature] President
[Signature]
George T. Hoover
Fredrick B. Hallock
 Commissioners

(A) B.B.D. Transportation Co., Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport the commodities as hereinafter set forth in paragraph (B) between all points and places as follows:

1. From, to and between all points and places in the Los Angeles Drayage Area as described in Appendix "B" attached hereto.
2. From and to all points and places in the Los Angeles Drayage Area, as described in Appendix "B", on the one hand, and the following cities, on the other hand: Long Beach, Pasadena and Pittsburg, serving no intermediate points.

(B) B.B.D. Transportation Co., Inc., is authorized to transport the following commodities:

1. AIRPLANES OR PARTS NAMED, as listed under that heading in Items Nos. 4700 through 4980 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
2. BOILERS, FURNACES, RADIATORS, STOVES, RELATED ARTICLES OR PARTS NAMED, as listed under that heading in Items Nos. 11960 through 13280 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

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Decision No. 6165S, Application No. 42990.

3. CARRIERS, SHIPPING, as listed under that heading in Items Nos. 20660 through 21251 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
4. CHEMICALS, as listed under that heading in Items Nos. 21980 through 26620 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
5. CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, as listed under that heading in Items Nos. 29220 through 30440 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
6. FERTILIZERS, as listed under that heading in Items Nos. 535, 540 and 550 of Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, Cal. P.U.C. No. 193, J. P. Haynes, Agent, on the issue date thereof and Supplement No. 34 thereto.
7. INSULATING MATERIALS, as listed under that heading in Items Nos. 53155 through 53470 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
8. LUMBER AND FOREST PRODUCTS, as listed under that heading in Item No. 660 on Original Pages 62 and 63 of Minimum Rate Tariff No. 2.
9. MACHINERY OR MACHINES, OR PARTS NAMED, as listed under that heading in Items Nos. 58470 through 67391 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.

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Decision No. 61655, Application No. 42990.

10. OIL, WATER OR GAS WELL OUTFITS AND SUPPLIES, AND OTHER ARTICLES, as listed under that heading in Item No. 365 on Third Revised Page 38-A of Minimum Rate Tariff No. 2.
11. PLUMBERS' GOODS, OR BATHROOM OR LAVATORY FIXTURES, as listed under that heading in Items Nos. 77890 through 78771 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
12. SHEET STEEL WARE, as listed under that heading in Items Nos. 85515 through 86010 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
13. VEHICLE PARTS, as listed under that heading in Items Nos. 93445 through 94790 of Western Classification No. 76, J. P. Hackler, Alternate Agent, on the issue date thereof.
14. MISCELLANEOUS COMMODITIES, VIZ.:
 - Bars, iron or steel
 - Bottles, glass
 - Cases, cartridge
 - Cement, hydraulic, masonry, mortar, natural or Portland, in bags
 - Frames, window
 - Gas, acetylene
 - Gas, nitrogen
 - Paint
 - Rods, welding
 - Shapes, Iron or steel
 - Sheets, iron or steel
 - Shingles or siding
 - Wire

End of Appendix A

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Decision No. 61658, Application No. 42990.

APPENDIX B TO DECISION NO. 61658

LOS ANGELES DRAYAGE AREA includes the area embraced by the following boundary: Beginning at the intersection of 88th Street and Vermont Avenue; southerly along Vermont Avenue to 120th Street; easterly along 120th Street and its prolongation to Alameda Street; northerly along Alameda Street to Century Boulevard; easterly along Century Boulevard to Santa Fe Avenue; northerly along Santa Fe Avenue to Tweedy Boulevard; easterly along Tweedy Boulevard to Stanford Avenue; northerly along Stanford Avenue to Southern Avenue; easterly along Southern Avenue to Atlantic Avenue; southerly along Atlantic Avenue to Southern Avenue; easterly along Southern Avenue to the west bank of the Los Angeles River; northerly along the west bank of the Los Angeles River to Gage Avenue; easterly along Gage Avenue to Garfield Avenue; northeasterly along Garfield Avenue to Anaheim Telegraph Road; southeasterly along Anaheim Telegraph Road to Church Street; northeasterly along Church Street and its prolongation across The Atchison, Topeka and Santa Fe right of way to Vail Avenue; northeasterly along Vail Avenue to Ferguson Drive; westerly along Ferguson Drive to Gerhart Street; northerly along Gerhart Street to Hubbard Avenue; westerly along Hubbard Avenue and its prolongation to Eastern Avenue; southerly along Eastern Avenue to Whittier Boulevard; westerly along Whittier Boulevard to Downey Road; northerly along Downey Road to Hubbard Avenue; westerly along Hubbard Avenue to Indiana Street; northerly along Indiana Street and its prolongation to City Terrace Drive; northerly along City Terrace Drive to Ramona Boulevard; northeasterly along Ramona Boulevard to Eastern Avenue; northerly along Eastern Avenue and Marianna Avenue to the boundary line of the City of Los Angeles; easterly, northerly and westerly along the boundary of the City of Los Angeles to the boundary of Forest Lawn Memorial Park; southwesterly and northwesterly along the boundary of Forest Lawn Memorial Park to Rosslyn Street; southwesterly along Rosslyn Street to San Fernando Road; southeasterly along San Fernando Road to Tyburn Street; southwesterly along Tyburn Street to its intersection with the boundary of the City of Los Angeles; northwesterly and westerly along the boundary of the City of Los Angeles to Barham Boulevard; southerly along Barham Boulevard to Cahuenga Boulevard; southeasterly along Cahuenga Boulevard to Mulholland Highway; westerly along Mulholland Highway to Coldwater Canyon Road; southerly along Coldwater Canyon Road to the boundary of the City of Beverly Hills; southeasterly along the boundary of the City of Beverly Hills to the intersection of La Cienega Boulevard and Olympic Boulevard; easterly along Olympic Boulevard to Victoria Avenue; southerly along Victoria Avenue to Exposition Boulevard; easterly along Exposition Boulevard to Crenshaw Boulevard; southerly along Crenshaw Boulevard to Stocker Street; westerly along Stocker Street to Victoria Avenue; southerly along Victoria Avenue to Slauson Avenue; westerly along Slauson Avenue to Brynhurst Avenue; southerly along Brynhurst Avenue to 59th Street; easterly along 59th Street to Van Ness Avenue; southerly along Van Ness Avenue to 74th Street; easterly along 74th Street to Normandie Avenue; southerly along Normandie Avenue to 88th Street; easterly along 88th Street to the point of beginning.