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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of B B D TRANSPORTATION CO., INC., a corporation, to sell and transfer, and B B D LEASING COMPANY to acquire certain property, and CARGO CARRIERS, INC. to acquire a certificate of public convenience and necessity.

Application No. 44723

O P I N I O N

B B D Transportation Co., Inc., (Transportation) is a highway common carrier and owns a substantial fleet and other necessary property to conduct such a business. All stock of Transportation is owned by its president Floyd Brumbaugh.

Transportation's operating rights were created by Decision No. 63510, dated April 3, 1962, in Application No. 43351. They extend from Sacramento and San Francisco Territory on the north to Los Angeles Basin Territory on the south for general commodities, with exceptions.

Applicant Cargo Carriers, Inc., (Cargo) was formerly named McCurdy and Son, Inc. This corporation is now dormant. It has one hundred no par value shares all owned by Brumbaugh. Brumbaugh proposes to transfer fifty of these shares to R. E. Harkens.

Transportation requests permission to transfer all its physical public utility assets to B B D Leasing Company (Leasing), and its operating right to Cargo. Leasing has requested authority from the Commissioner of Corporations to issue 5,500 shares of \$10 par value, common capital stock, all to be issued to Transportation. Five thousand of these shares are to be issued to purchase the assets, five hundred for cash.

Cargo seeks authority to issue fifty additional shares which are to be sold to Morris M. Rudich for \$25,000 in cash. If granted Brumbaugh, Harkens and Rudich will own this company, one-third each, and will be the directors. Harkens and Rudich will be the executive officers. Cargo requests authority to purchase Transportation's operating rights for \$5,000, which sum will be the stated capital, with \$20,000 being credited to contributed surplus.

The principal reason for handling the transaction in this fashion is that it would be prohibitively expensive for Harkens and Rudich to acquire the assets as well as the operating authority.

The Commission finds that the proposed transfers would not be adverse to the public interest.

The Commission further finds 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 purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Cargo Carriers, 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.

The action taken herein shall not be construed to be a finding of the value of the rights and property herein authorized to be transferred. A public hearing is not necessary.

O R D E R

Application having been filed and the Commission having determined that the application should be granted,

IT IS ORDERED that:

1. On or before December 31, 1962, B B D Transportation Co., Inc., may sell and transfer and Cargo Carriers, Inc., and B B D Leasing Company may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Cargo Carriers, Inc., and B B D Leasing 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. Cargo Carriers, Inc., shall issue and file an adoption notice and tariff supplements in accordance with Rule 6 of the Commission's General Order No. 80-A. The effective date of the adoption notice and tariff supplements shall be concurrent with the consummation of the transfer herein authorized, and shall be not earlier than ten days after the effective date of this order and not less than ten days after said documents are filed with the Commission.

4. The public utility operative property authorized to be transferred herein shall not be relieved from its dedication to the public use, anything in any lease, contract or other agreement to the contrary notwithstanding, and shall retain its status as public utility operative property as though the transfer authorized herein had not taken place.

5. Applicant Cargo Carriers, Inc., may issue 50 shares of its no par value common capital stock to Morris M. Rudich for the consideration and purposes set forth in the application.

6. Applicant Cargo Carriers, Inc., shall file with this Commission a report, or reports, as required by General Order No. 24-A which order, insofar as it is applicable, is hereby made a part of this order.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 19th day of September, 1962.

George G. Grover
-President-

D. Lynn Fox

Frederick B. Halaloff

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.