

ORIGINAL

Decision No. 65427

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ARTHUR R. BENNETT, an individual)
 doing business as B-LINE EXPRESS,)
 to sell and transfer operative)
 equipment and a certificate of)
 public convenience and necessity to)
 COAST DRAYAGE, and for COAST DRAYAGE)
 to operate under a lease.)

Application No. 45291

O P I N I O N

Arthur R. Bennett, doing business as B-Line Express, requests authority to sell and transfer and Coast Drayage, requests authority to purchase and acquire certain highway common carrier operative rights as well as good will, motor vehicle and office equipment for a cash consideration of \$15,000. Pending final approval of this Commission and the Interstate Commerce Commission, authority is also sought to temporarily lease said operative rights.

The rights were granted by Decisions Nos. 59294 and 59504, dated November 24, 1959, and January 12, 1960, respectively, in Application No. 40897. The certificate authorizes the transportation of general commodities, with limited exceptions, between Richmond and San Leandro and intermediate points, on the one hand, and, on the other hand, points located on U.S. Highway 101 between Sausalito and Santa Rosa and certain off-route points. In addition thereto, the sale includes 8 units of motor vehicle equipment, two filing cabinets and a typewriter. A value of \$6,780 is applied to the operating authority and good will. Two thirds of said amount is applied to the intrastate rights and one third to the interstate rights.

The temporary lease provides for a monthly rental of \$100 which will be applied to the purchase price. The lease also provides for a monthly payment of \$150 to lessor for maintaining the good will and accounts of the business during the lease period. Said payments will not apply to the purchase price.

Applicant purchaser is presently engaged as a highway common carrier for the transportation of general commodities, with limited exceptions, between points in the San Francisco Territory, San Rafael, Sacramento, Manteca, Monterey and all points intermediate thereto. As of December 31, 1962, applicant purchaser indicated a net worth in the amount of \$64,397.46.

It is alleged that applicant seller is in critical need of financial assistance; that applicant purchaser is an experienced carrier; and that the combination of the two operations should result in a financially successful operation.

On April 22, 1963, California Motor Transport Co., and California Motor Express, Ltd., Delta Lines, Inc., Merchants Express of California, Oregon-Nevada-California Fast Freight, Pacific Motor Trucking Co., Valley Express Co., and Valley Motor Lines, Inc., and Willig Freight Lines filed a petition for leave to intervene. They contend that applicants are attempting to perpetuate a service which the public in the affected area does not need. They request that the matter be set for hearing and the issue of public convenience and necessity be re-examined.

By Decision No. 63300 dated February 20, 1962, in Application No. 43901, the Commission held as follows:

"In a transfer proceeding the Commission is primarily concerned with determining whether the proposed transfer would be adverse to the public interest and not in determining whether a more competent carrier would unbalance the competitive status among the existing carriers. Protestants' offer to adduce evidence on the issue of public convenience and necessity would constitute a collateral attack upon the decisions heretofore rendered by the Commission finding that public convenience and necessity support the instant operation. The motion of protestants will be denied."

The petition to intervene will be denied.

The acquisition of the highway common carrier certificate of public convenience and necessity being authorized herein, when combined with the existing certificate of public convenience and necessity issued to Coast Drayage shall not be deemed to authorize separate operative rights to transport the same commodities between the same points and over the same routes. To the extent of any duplication, the highway common carrier operative rights held by Coast Drayage upon the consummation of the transfer herein authorized shall be deemed to be merged so that such operative rights may not later be separated to permit Coast Drayage to sell or transfer one certificate authority and retain another certificate authority to perform the same service.

After consideration the Commission finds that the proposed sale and temporary lease would not be adverse to the public interest. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1963, Arthur R. Bennett may sell and transfer, and Coast Drayage may purchase and acquire, the operative rights and property referred to in the application.

2. To the extent of any duplication, the highway common carrier operative rights held by Coast Drayage upon the consummation of the transfer herein authorized shall be deemed to be merged so that such operative rights may not later be separated to permit Coast Drayage to sell or transfer one certificate authority and retain another certificate authority to perform the same service.

3. Within thirty days after the consummation of the transfer herein authorized, Coast Drayage 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.

4. Coast Drayage shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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-A.

5. Pending consummation of the transfer herein authorized applicants may temporarily lease the operative rights and property herein referred to according to the terms of the lease agreement attached to the application as Exhibit B.

6. The petition to intervene is denied.

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

Dated at San Francisco, California, this 21st day of MAY, 1963.

George F. Grover
President

[Signature]

Fredrick B. Hildehoff

[Signature]

Commissioners

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