

Decision No. 66186**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SIERRA DISTRIBUTING, LTD., a)
 corporation, F. T. S. TRANSPORT)
 SYSTEM, INC., a corporation, and)
 C. J. MORRISSEY, Trustee in)
 Bankruptcy for authority for)
 Sierra Distributing, Ltd. to)
 purchase the certificates of public)
 convenience and necessity of F. T.)
 S. Transport System, Inc.)

Application No. 45639

O P I N I O N

C. J. Morrissey as Trustee in Bankruptcy for F. T. S. Transport System, Inc. (F.T.S.) requests authority to sell and transfer and Sierra Distributing, Ltd. (Sierra) requests authority to purchase and acquire certain highway common carrier operative rights.

The authority was granted by Decision No. 51313, dated April 12, 1955, in Application No. 36786; Decision No. 52515, dated January 23, 1956, in Application No. 35493; and Decision No. 53166, dated May 28, 1956, in Application No. 35493 (First Supplemental). Said authority was acquired by F.T.S. by Decision No. 60724, dated September 13, 1960, in Application No. 42474, as amended by Decision No. 61255, dated December 28, 1960, in Application No. 42474. F. T. S. was also granted a certificate by Decision No. 59499, dated January 12, 1960, in Application No. 41434.

These certificates are currently suspended by Order of the Commission in Decision No. 64955, dated February 13, 1963, in Application No. 45031.

In brief F. T. S. was authorized to transport general commodities, with certain exceptions, between points within the

San Francisco-East Bay Cartage Zone; specified commodities between various points in the State of California bounded on the north by Santa Rosa and Sacramento and on the south by Colton; other specified commodities between Sacramento, on the one hand, and, on the other, San Francisco, San Jose, Alameda, Oakland, Pittsburg, Stockton and Perkins; and between Walnut Grove, and Modesto, between Sacramento and Represa, and between Sacramento, on the one hand, and Davis, Woodland, Elkhorn, Elk Grove and Nicolaus, on the other hand.

On December 12, 1962 the Internal Revenue Service seized all of the property and assets of F. T. S. On January 7, 1963 a Petition in Bankruptcy was filed on behalf of F. T. S. and applicant Morrissey was appointed Trustee of the bankrupt estate. The operating authority was offered for sale at public auction and Sierra was the highest bidder, with a bid of \$12,500. The Bankruptcy Court issued its order approving and confirming the sale to Sierra.

Sierra is presently engaged as a contract carrier and a radial highway common carrier. It owns and operates 214 units of equipment and as of March 31, 1963, indicated a net worth in the amount of \$108,380.47.

A letter of protest was received by the Commission on behalf of certain carriers. The Commission in the recent past has repeatedly held that in a transfer proceeding it is primarily concerned with whether the proposed transfer would be adverse to the public interest and not in the collateral issue of public convenience and necessity.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. Sierra has the necessary experience, equipment and financial ability to conduct the proposed service.

3. A public hearing is not necessary.

The Commission concludes that the application should be granted as set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. On or before April 1, 1964, C. J. Morrissey, Trustee in Bankruptcy for F. T. S. Transport System, Inc., may sell and transfer, and Sierra Distributing, Ltd., may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Sierra Distributing, Ltd., 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. Sierra Distributing, Ltd., shall issue or cause to be issued tariffs with the Commission, naming rates, rules and regulations governing the common carrier operations herein, such rates to be on the same level, subject to outstanding minimum rate orders, as rates previously published by F. T. S. Transport System, Inc. 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.

