

Decision No. 66698

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AZUSA TRANSFER COMPANY, a corporation, to transfer and of PROGRESSIVE TRANSPORTATION CO., a corporation (substituted as transferee in lieu of AZUSA TRANSPORTATION CO.), to acquire the certificate of public convenience and necessity and certain tangible property of AZUSA TRANSFER COMPANY.

(Amended Title)

Application No. 45449
Petition to Reopen Proceeding, Etc.

FIRST SUPPLEMENTAL OPINION

By Decision No. 65603, dated June 18, 1963, as amended by Decision No. 65728, dated July 23, 1963, in this proceeding, this Commission, among other things, authorized Azusa Transfer Company to sell and transfer, and Azusa Transportation Co. to purchase and acquire, the certificate of public convenience and necessity granted by Decision No. 61309, dated January 4, 1961, as amended, together with certain equipment.

On January 6, 1964, Azusa Transfer Company, Progressive Transportation Company and Azusa Transportation Co. filed their petition with this Commission requesting that this proceeding be reopened for the purpose of substituting Progressive Transportation Company as the transferee in lieu of Azusa Transportation Co.

It appears that previously the Interstate Commerce Commission had denied authority involving the transfer of interstate operating rights and certain property from Azusa Transfer Company to Azusa Transportation Co., but that subsequently it authorized a similar transfer from Azusa Transfer Company to Progressive Transportation Company, the latter being referred to as Progressive Transportation Co. in said Decisions Nos. 65603 and 65728.

After consideration this Commission finds that:

(1) this proceeding should be reopened; (2) Progressive Transportation Company may be substituted as transferee in lieu of Azusa Transportation Co.; and (3) the proposed transfer as set forth in said petition would not be adverse to the public interest. On the basis of these findings, we conclude that the petition should be granted to the extent set forth in the following Second Supplemental Order. A public hearing is not necessary.

The authorization herein given is not to be construed as a finding of value of the rights and properties herein authorized to be transferred. Progressive Transportation Company 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.

SECOND SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. The proceeding designated as Application No. 45449 is hereby reopened.

2. Decision No. 65603, dated June 18, 1963, and Decision No. 65728, dated July 23, 1963, both in this proceeding, are hereby vacated and set aside.

3. On or before June 30, 1964, Azusa Transfer Company may sell and transfer, and Progressive Transportation Company may purchase and acquire, the operative rights and property referred to in the petition filed on January 6, 1964, in this proceeding.

4. Within thirty days after the consummation of the transfer herein authorized, Progressive Transportation 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.

5. Progressive Transportation Company 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 ten days after the effective date of this order on not less than ten 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.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, Progressive Transportation Company shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

7. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 28th day of January, 1964.

William W. Bennett
President

Carl E. Blyden
Carl E. Blyden

George G. Grover

Fredrick B. Hallock
Commissioners