

ORIGINAL

Decision No. 67674

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SQUARE DEAL TRUCKING CORPORATION, a corporation, to transfer, and of THUNDERBIRD FREIGHT LINES, INC., a corporation, to acquire, the Certificate of Public Convenience and Necessity of SQUARE DEAL TRUCKING CORPORATION

Application No. 46851
Filed July 27, 1964

O P I N I O N

This is an application for an order of the Commission authorizing Square Deal Trucking Corporation to lease, sell and transfer, and Thunderbird Freight Lines, Inc. to hire, purchase and acquire, a highway common carrier certificate of public convenience and necessity.

By Decision No. 60574, dated August 16, 1960, as amended by Decision No. 63090, dated January 9, 1962, in Application No. 42101, the Commission granted to Square Deal Trucking Corporation a certificate of public convenience and necessity authorizing it to operate as a highway common carrier of general commodities, with certain exceptions, between various points and places in southern California.

Under the terms of a Purchase Agreement entered into on May 25, 1964, a copy of which is attached to the application as Exhibit A, Square Deal Trucking Corporation proposes to sell its intrastate operating rights to Thunderbird Freight Lines,

Inc., an Arizona corporation, for a cash consideration of \$45,000.

Pursuant to authority granted by the Commission in Decision No. 67211, dated May 19, 1964, in Application No. 46606, the seller executed a mortgage of motor vehicles in favor of the purchaser in order to secure a \$20,000 down payment, which purchaser advanced in order to provide seller with working capital and thus alleviate the seller's financial difficulties.

Exhibit B, attached to the application, is a copy of a Lease Agreement entered into on May 25, 1964 wherein Thunderbird Freight Lines, Inc. proposes to lease intrastate certificated rights from Square Deal Trucking Corporation for a monthly rental of \$600 pending final consummation of the purchase transaction upon approval by the Interstate Commerce Commission. Rentals paid under the lease will be offset against the purchase price. Applicants assert that such an arrangement is necessary to forestall further losses and ultimate bankruptcy proceedings against the lessor.

The application shows that Thunderbird Freight Lines, Inc. is qualified to do business in this State as a foreign corporation; that it maintains facilities at Vernon, California; and that it is presently operating as a motor carrier in interstate commerce within the State pursuant to authority granted by the Interstate Commerce Commission.

The Commission has considered this matter and finds that the proposed leasing, selling and transferring of a certificate of public convenience and necessity under the circumstances set forth in this proceeding would not be adverse to the public interest. On the basis of this finding we conclude that the application should be granted. A public hearing is not necessary.

Thunderbird Freight Lines, 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 operative rights to be transferred.

O R D E R

IT IS ORDERED that:

1. Square Deal Trucking Corporation may lease, sell and transfer, and Thunderbird Freight Lines, Inc. may hire, purchase and acquire, the highway common carrier certificate

of public convenience and necessity referred to in this proceeding, in accordance with the terms of the Purchase Agreement and the Lease Agreement, copies of which are attached to the application as Exhibits A and B, respectively.

2. Within thirty days after the consummation of the transfer herein authorized, Thunderbird Freight Lines, 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 said transfer.

3. Thunderbird Freight Lines, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Thunderbird Freight Lines, Inc. 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.

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

Dated at San Francisco, California,
this 11th day of AUGUST, 1964.

Frederick B. Holdhoff
President
Paul J. [unclear]
Edward A. Pease
George L. Trover
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.