

ORIGINAL

Decision No. 69430

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

(a) AUTO FAST FREIGHT, INC.,)
for authority to issue shares)
of its common capital stock)
pursuant to Section 816-830 of)
the California Public Utilities)
Code.)

(b) LUCIANO GIUDICE, CHARLOTTE)
GIUDICE, CHARLES TRAINA and)
JOHN TRAINA, individuals, doing)
business as AUTO FAST FREIGHT,)
to sell, and AUTO FAST FREIGHT,)
INC., a corporation, to purchase)
a highway common carrier)
operating right and property,)
pursuant to Section 851-853 of)
the California Public Utilities)
Code.)

Application No. 47675
Filed June 15, 1965

O P I N I O N

This is an application for an order of the Commission (1) authorizing Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina, copartners doing business as Auto Fast Freight, to sell and transfer a highway common carrier certificate of public convenience and necessity, together with certain related assets, to Auto Fast Freight, Inc., and (2) authorizing Auto Fast Freight, Inc., in acquiring said assets, to assume long-term obligations and to issue 2,050 shares of its capital stock without nominal or par value.

Pursuant to authority granted by Decision No. 63853, dated June 26, 1962, in Application No. 44464, Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina, copartners doing business as Auto Fast Freight, acquired a highway common carrier certificate of public convenience and necessity which authorizes the transportation of general commodities, with certain exceptions, between various points and places in southern California. The partnership also conducts operations under permits issued by this Commission and engages in activities which are subject to the jurisdiction of the Interstate Commerce Commission. In order to establish their business under the permanent form of a corporate organization, the copartners propose to sell and transfer their highway common carrier certificate of public convenience and necessity, together with certain related assets, to Auto Fast Freight, Inc. in exchange for capital stock and the assumption by the latter of certain liabilities.

Auto Fast Freight, Inc. is a California corporation organized on or about March 31, 1964. Exhibit C, attached to the application, contains a pro forma balance sheet of said corporation as of April 1, 1965, giving effect to the proposed transaction as originally contemplated, which is summarized as follows:

<u>Assets</u>	
Current assets	\$36,968
Equipment less reserves for depreciation	40,411
Certificates and permits	<u>16,562</u>
Total	<u>\$93,941</u>
<u>Liabilities</u>	
Current liabilities	\$10,088
Equipment obligations	32,587
Capital stock	<u>51,266</u>
Total	<u>\$93,941</u>

Subsequent to filing the application, applicants reported that they are agreeable (a) to placing no value upon certificates and permits for purposes of this proceeding and (b) to a corresponding reduction of \$16,562 in capital stock. Therefore, instead of issuing 2,050 shares of capital stock at a price slightly in excess of \$25 per share, the corporation would issue 1,388 shares at not less than \$25 per share in exchange for the assets to be acquired and liabilities to be assumed.

The Commission has considered this matter and finds that: (1) the proposed sale and transfer would not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the 1,388 shares of capital stock herein authorized is reasonably required for the purpose specified herein; (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; and (4) good cause appears for dismissing without

prejudice that portion of the application pertaining to the proposed issue of an additional 662 shares of capital stock. On the basis of these findings we conclude that the application should be (a) dismissed without prejudice, insofar as it relates to the issue and sale of capital stock in excess of 1,388 shares, and (b) granted in all other respects. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of the highway common carrier certificate of public convenience and necessity only. The transfer of permitted operative rights must be the subject of a separate application or applications.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1965, Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina, may sell and transfer, and Auto Fast Freight, Inc. may purchase and acquire, the highway common carrier certificate of public convenience and necessity and other assets referred to in the application. Said sale and transfer may be made effective as of March 31, 1965 for accounting purposes.

2. Auto Fast Freight, Inc., on or before December 31, 1965, may acquire the assets and assume the liabilities of the sellers and, for the purpose specified in the foregoing opinion, may issue not to exceed 1,388 shares of its capital stock at not less than \$25 per share.

3. Auto Fast Freight, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-3, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Auto Fast Freight, 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.

5. Auto Fast Freight, 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 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, Auto Fast Freight, Inc. shall cause to be filed with the Commission in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the sellers for the period commencing with the first day of the current year to and including the effective date of the transfer for accounting purposes.

7. This application insofar as it relates to the issue and sale of 662 shares of capital stock in addition to the 1,388 shares herein authorized is hereby dismissed without prejudice.

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

Dated at San Francisco, California,
this 27th day of July, 1965.

Fredrick B. Hillhoff
President

George E. Trover

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

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