

ORIGINAL

Decision No. 69813

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CONSOLIDATED FREIGHTWAYS CORPORATION
 OF DELAWARE, and PACIFIC TRUCK
 SERVICE, INC., for authority of
 CONSOLIDATED FREIGHTWAYS CORPORATION
 OF DELAWARE to purchase operative
 rights and property of PACIFIC TRUCK
 SERVICE, INC., and to temporarily
 lease such properties and operate
 over such rights.

Application No. 47795
 (Filed August 6, 1965)

O P I N I O N

This is an application by Consolidated Freightways Corporation of Delaware (hereinafter referred to as Consolidated) and Pacific Truck Service, Inc. (hereinafter referred to as Pacific) in which: (1) Applicants seek authority for Pacific to sell and Consolidated to acquire all of Pacific's California intrastate operating authority, its freight terminal and operating equipment. (2) Applicants seek temporary authority for Consolidated to operate Pacific's properties under Pacific's operating rights pending the final determination of this application and a similar proceeding, relating to Pacific's interstate rights, now pending before the Interstate Commerce Commission.

Consolidated conducts operations as a common carrier by motor vehicle between points and places in the United States under authority granted by the Interstate Commerce Commission. Consolidated, under authority granted by this Commission, conducts operations in California as a highway common carrier of general commodities (principally between the San Francisco and Los Angeles

territories), as a highway common carrier in the transportation of petroleum products and as a petroleum irregular route carrier. Pacific holds authority from the Interstate Commerce Commission to operate as a common carrier by motor vehicle. Pacific holds authority, granted by this Commission, to operate as a highway common carrier for the transportation of petroleum products, petroleum irregular route carrier, radial highway common carrier, highway contract carrier and city carrier.

The verified application avers that Pacific has suffered operating losses for the past several years; that, because of these operating losses and health problems of Pacific's president and principal shareholder, Pacific determined to sell its operating rights and properties; and that Pacific entered into an agreement of sale with Consolidated. The agreement, which was executed on July 2, 1965, provides that Consolidated will purchase Pacific's operating rights, operating equipment, freight terminal, office equipment and miscellaneous motor vehicle parts for the sum of \$718,500. Two thousand dollars of the purchase price is allocated to all of the California operating authority heretofore enumerated, \$88,000 is allocated to Pacific's interstate operating authority and the balance is allocated to the terminal, operating equipment and other items sold. The agreement also provides that pending permanent approval thereof by this Commission and the Interstate Commerce Commission the parties would seek temporary authority from both Commissions to permit Consolidated to conduct operations with Pacific's equipment and facilities under Pacific's operating rights. The agreement provides that Consolidated shall pay Pacific a monthly rental fee of \$10,615 if the requests for temporary operating authority are granted and that, subject to

minor adjustments, \$8,615 of said monthly payment shall be applied toward the purchase price.

The application indicates that on August 3, 1965 the Interstate Commerce Commission granted Consolidated temporary authority to lease the properties and interstate operating rights of Pacific. The application also contains a Consolidated balance sheet which discloses that on May 31, 1965, Consolidated had total assets of \$75,862,886 and a total unappropriated surplus of \$12,218,152, and that its net income for the period from December 31, 1964, to May 31, 1965, was \$932,064. The record also indicates that a copy of the application was served on the California Trucking Association and that the Commission has received no protests in connection therewith.

The Commission makes the following findings and conclusions:

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Granting Consolidated temporary authority to lease and operate Pacific's California intrastate operating rights, facilities and equipment would not be adverse to the public interest.
3. The transfer and sale of Pacific's California intrastate operating authority, facilities and equipment to Consolidated would not be adverse to the public interest.

Conclusions of Law

1. Consolidated should be granted temporary authority to lease and operate Pacific's California intrastate operating rights, facilities and equipment.

2. Pacific should be authorized to sell and transfer and Consolidated to purchase and acquire Pacific's California intrastate operating authority, facilities and equipment.

O R D E R

IT IS ORDERED that:

1. On or before January 1, 1967, Pacific Truck Service Inc. may sell and transfer, and Consolidated Freightways Corporation of Delaware may purchase and acquire, the operative rights and property referred to in the application. To the extent this transfer results in the duplication of any operating rights, such rights shall be merged and may not be separated to permit later separate transfer or sale.

2. Within thirty days after the consummation of the transfer herein authorized, Consolidated Freightways Corporation of Delaware 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. Consolidated Freightways Corporation of Delaware 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 thirty days after the effective date of this order or 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Consolidated Freightways Corporation of Delaware 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 seller for the period commencing with the first day of the current fiscal year to and including the effective date of the transfer.

5. Consolidated Freightways Corporation of Delaware is authorized to lease and operate the California intrastate operating rights, facilities and equipment of Pacific Truck Service, Inc., in accordance with the agreement attached to the application as Exhibit B, until January 1, 1967, unless sooner terminated by the consummation of the transfer authorized herein.

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

Dated at San Francisco, California, this 19th day of OCTOBER, 1965.

Fredrick B. Hallock
President

George E. Thayer

Augustus

William B. Beard

Commissioners

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