

Decision No. 71099**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of BARGSTEN TRUCK LINES, INC., a )  
corporation, and SUPERIOR FAST )  
DRAYAGE, a corporation, doing )  
business as SUPERIOR EXPRESS, for )  
an Order Authorizing the Purchase )  
and Sale of a Certificate of )  
Public Convenience and Necessity. )

Application No. 48401  
(Filed April 14, 1966)

O P I N I O N

In this application, Superior Fast Drayage, a California corporation, doing business as Superior Express, (buyer) of 4527 Loma Vista Street, Los Angeles, California, requests authority to purchase, and Bargsten Truck Lines, Inc., a California corporation, (seller) requests authority to sell its highway common carrier certificate authorizing the transportation of general commodities between points in the Los Angeles Basin Territory. A certified copy of the Articles of Incorporation of the buyer is on file with this Commission in this application, and copies of agreements of sale between the parties are attached to the application.

The certificate to be transferred was issued to Bargsten by Decision No. 62598, dated September 25, 1961, in Application No. 43265, and the application alleges that a certificate of registration was issued to Bargsten Truck Lines, Inc., by the Interstate Commerce Commission in its Order, No. MC-121336 (Sub-No.1) service dated March 6, 1964, authorizing it to engage in interstate and foreign commerce to the extent of its California intrastate authority.

The consideration for the sale of the certificates as set forth in the agreements between the parties, attached to the application, is the sum of \$25,000 cash to be paid for the operating authorities. It is alleged that said sum has been placed in escrow with James W. Wade to be disbursed in accordance with the agreements. The sale is contingent upon the approval by the Commission of the transfer of the Bargsten certificate of public convenience and necessity and upon the subsequent recognition of that certificate by the Interstate Commerce Commission.

The parties propose that temporary authority to operate under said certificate, prior to completion of the transfer of the rights, be authorized to buyer upon payment of the sum of \$50 per month for the California rights above, or \$200 per month for both intrastate and interstate rights to be credited on the purchase price, and the remainder of said purchase price to be paid upon final approval of the Interstate Commerce Commission.

The application alleges that the affairs of the seller are now in the hands of its creditors, and that a creditors' meeting was held February 28, 1966, and a creditors' committee was appointed to speak for the group of creditors as a whole, and it was determined at said creditors' meeting that seller owed approximately \$235,000 in accounts payable, and unsecured notes, and that, including the purchase price of \$25,000 for the operating rights here involved, there was only approximately \$72,000 available for distribution to creditors. A financial statement of the seller set forth in Exhibit D, attached to the application, shows the financial condition of seller.

The buyer is presently engaged in intrastate commerce within California as a permitted carrier in the transportation of general and special commodities between various points and places therein pursuant to authority issued by this Commission.

The buyer alleges that its success and its ability to serve its customers has been substantially impaired by the fact that the only operating authority that it has held has been the aforementioned California permits, and that a large number of shippers now served by buyer under its permitted authority have so many regular shipments moving between points throughout the Los Angeles Basin Territory that a certificate is probably needed.

Financial statements of the buyer, attached to the application, disclose that as of February 28, 1966 its total assets were \$136,192.57, and total liabilities \$106,023.76. Total operating revenue for fourteen months, January 1, 1965, to February 28, 1966, was \$660,721.75 resulting in a net profit of \$20,062.50.

After consideration the Commission finds that:

1. The granting of the application will permit buyer to furnish a more complete and satisfactory service to its shippers and the shippers of transferor which they need and require.
2. The agreement of sale dated March 28, 1966, and supplement dated March 31, 1966, between the buyer and seller are not adverse to the public interest and the proposed transfer should be authorized.
3. Under the terms of said agreement, the escrow holder, James W. Wade, would be authorized to pay \$50 per month for operation under the transferred certificate or to pay \$200 per month for operation under both the California certificate and the Interstate Commerce Commission authority, until the final order of the Interstate Commerce Commission at which time if said order approves the transfer

the remaining funds shall be disbursed to the seller, but if the transfer is not approved, the remaining funds shall be disbursed to the buyer upon its surrendering its rights under such certificate, and placing them in suspension to be returned to the seller, or otherwise disposed of.

4. Superior Fast Drayage, a corporation, doing business as Superior Express, has the financial resources, experience, facilities, equipment, and personnel to conduct the common carrier operations hereinafter authorized.

No protests have been received. A public hearing is not necessary. After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest.

The authorization herein granted shall not be construed as a finding of the value of the rights herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before April 1, 1967, Bargsten Truck Lines, Inc., may sell and transfer, and Superior Fast Drayage, a corporation, doing business as Superior Express, may purchase and acquire the intrastate operative right referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Superior Fast Drayage, a corporation, doing business as Superior Express, 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. Superior Fast Drayage, a corporation, doing business as Superior Express, 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 accepted 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 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Superior Fast Drayage, a corporation, doing business as Superior Express, 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 year to and including the effective date of the transfer.

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

Dated at San Francisco, California, this 9<sup>th</sup> day of AUGUST, 1966.

Walter E. Mitchell  
President

George T. Hoover

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

William L. Bence  
Commissioners