

ORIGINAL

Decision No. 73493

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of)
Encinal Terminals, a California)
corporation, and)
Shippers Express Company, a)
California corporation,)
For an Order Authorizing Encinal)
Terminals to Acquire Control of)
Shippers Express Company through)
Ownership of Stock and for)
Encinal Terminals to Transfer)
Certificates of Public)
Convenience and Necessity to)
Shippers Express Company.)

Application No. 49792
Filed November 13, 1967

INTERIM OPINION

This is an application for an order of the Commission
(a) authorizing Encinal Terminals to acquire all the outstanding
capital stock of Shippers Express Company and (b) authorizing
Encinal Terminals to transfer to Shippers Express Company the
highway common carrier certificate of public convenience and
necessity granted by Decision No. 60547, dated August 9, 1960,
in Application No. 42198, as such certificate has been amended
by subsequent decisions of this Commission.

Encinal Terminals is a California corporation operating
as a public utility under the jurisdiction of this Commission as
a (1) highway common carrier of general commodities with certain
exceptions principally in and between the San Jose, Sacramento,

Stockton and San Francisco Bay areas and (2) warehouseman in Alameda and San Leandro. The application shows that the company is a wholly owned subsidiary of Alaska Packers Association, Inc., a Delaware corporation which, in turn, is a wholly owned subsidiary of Del Monte Corporation, a New York corporation.

Shippers Express Company is a California corporation operating as a public utility under the jurisdiction of this Commission as a highway common carrier of general commodities with certain exceptions generally between the San Francisco, Santa Clara, Sacramento, Stockton, Fresno, Los Angeles, Los Angeles Basin and San Diego territories.

Both applicants also operate under the jurisdiction of the Interstate Commerce Commission to which they have applied for authority in Docket No. MC-F-9943 pertaining to the acquisition of stock and transfer of the certificate of public convenience and necessity granted to Encinal Terminals by that Commission. The application filed in the above-entitled matter shows that although the certificate of public convenience and necessity, as amended, granted by this Commission authorizes Encinal Terminals to serve the Sacramento and Stockton areas, the company does not possess corresponding authority from the Interstate Commerce Commission.

Applicants indicate that if the certificate transfer aspect of this application prevents authorization of the stock acquisition, they will withdraw their certificate transfer request.

We have considered this matter and conclude that Section 5 of the Interstate Commerce Act (49 U.S.C. Sec. 5(2)(a), (11)) confers exclusive and plenary authority upon the Interstate Commerce Commission over the acquisition by Encinal Terminals of all the outstanding capital stock of Shippers Express Company.

Prior to passing upon the certificate transfer request, this Commission should be advised of the action of the Interstate Commerce Commission with respect to the corresponding application pending before that Commission. A public hearing on the stock acquisition aspect of this application is not necessary.

INTERIM ORDER

IT IS ORDERED that:

1. This application is dismissed insofar as it seeks authority for Encinal Terminals to acquire outstanding capital stock of Shippers Express Company.

2. The application, to the extent it seeks authority to transfer a certificate, will receive further consideration upon the filing herein of a copy of an order showing the action of the Interstate Commerce Commission in Docket No. MC-F-9943.

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

Dated at San Francisco, California,
this 19th day of DECEMBER, 1967.

John E. Little
President

William G. Bennett

Augusta

William J. ...

Fred P. Morrissey
Commissioners