

Decision No. 75247

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SMITH TRUCK LINE, INC., a corporation,  
to sell and transfer a certificate  
of public convenience and necessity  
to AMERICAN TRANSFER CO., a corporation.)

Application No. 50746  
(Filed December 12, 1968)

O P I N I O N

Smith Truck Line, Inc. requests authority to sell and transfer, and American Transfer Co. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 61028, dated November 7, 1960, in Application No. 42422 and authorized the transportation of general commodities, with certain exceptions, between Bakersfield and Modesto and other named points, and points within a radius of 10 miles of said points. Said certificate was transferred to applicant seller by Decision No. 63871, dated July 2, 1962, in Application No. 44461. A certificate of registration dated March 16, 1964, was issued by the Interstate Commerce Commission authorizing the same service for interstate and foreign commerce. The intrastate authority is also the subject of sale. The agreed cash consideration for both the intrastate and interstate authorities is \$35,000.

Applicant buyer is presently operating as a highway common carrier. As of September 30, 1968, applicant buyer indicated a net worth in the amount of \$1,559,851.

It is alleged that the proposed sale is subject to the approval of the Interstate Commerce Commission pursuant to Section 5 of the Interstate Commerce Act; on November 12, 1968, the Interstate Commerce Commission granted authority for applicant buyer to lease the rights and on December 2, 1968, applicant buyer took over the operations of applicant seller under said authority; no one protested the granting thereof; applicant seller has had financial difficulties and has been unable to meet its obligations; and the granting of the application will permit applicant buyer to provide a more complete service for its customers.

After consideration the Commission finds that although the Interstate Commerce Commission has plenary jurisdiction over the proposed sale, the actual transfer of the intrastate authority is a matter under the province of this Commission. The Commission further finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The application should be granted.

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

O R D E R

IT IS ORDERED that:

1. On or before December 15, 1969, Smith Truck Line, Inc. may sell and transfer, and American Transfer Co. may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, American Transfer Co. 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. American Transfer Co. 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 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. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, American Transfer Co. 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.

5. To the extent that the operating authority referred to in ordering paragraph 1 hereof constitutes a duplication of applicant buyer's existing authority said authority is hereby revoked.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of JANUARY, 1969.

William J. Quinn, Jr.  
President

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Fred R. Monussey

W. W. Martin

Thomas M. ...  
Commissioners