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Decision No. 75716

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
(a) SERVICE TANK LINES, a California
corporation, to transfer its highway
common carrier certificate; and
(b) LANG TRANSPORTATION CORPORATION,
a California corporation, to acquire
said highway common carrier certificate.
(Public Utilities Code Section 851).

Application No. 50923
(Filed March 3, 1969)

O P I N I O N

Service Tank Lines (hereinafter referred to as seller) seeks authority to sell and transfer and Lang Transportation Corporation (hereinafter referred to as purchaser) seeks authority to purchase, a highway common carrier certificate.

The certificate, which authorizes regular route transportation of petroleum products in tank vehicles, excluding products requiring insulated or pressurized containers, along certain specified routes throughout the State, was suspended by the Commission, effective February 10, 1969, because of seller's termination of insurance. Operations under the certificate had been terminated as of December 31, 1968. If the application is granted, purchaser will reinstate the required insurance in order to lift the suspension.

Purchaser is a carrier presently holding permits as a highway contract and radial highway common carrier; it also holds cement and petroleum irregular route certificates and a highway common carrier certificate for the transportation of properties used in drilling petroleum wells. Purchaser's announced purpose in acquiring this certificate is to enable it to service points in California not covered by its present petroleum operating authority,

both to serve the public now deprived of seller's services and to provide a more complete service to its own present customers.

Purchaser now operates a tank truck and a tractor, two pull trailers and a semitrailer in its petroleum operations; it intends to acquire by purchase or lease other equipment as required to adequately serve the public under the authority it seeks to acquire.

Applicants allege that no other common carrier would be adversely affected by the authority sought since the same quantum of service would be rendered in the areas covered by seller's certificate. It is further alleged that the experience of purchaser in the field of petroleum transportation will assure adequate and efficient service to the public; it is further alleged that purchaser has sufficient resources to acquire additional equipment to adequately serve the public heretofore served by seller.

The purchase price of the certificate is agreed upon at \$500; copies of a proposed Bill of Sale and Transfer of Certificate have been submitted as Exhibits F and G to the application.

Service Tank Lines is a participant in Western Motor Tariff Bureau, Inc., Agent, Local Freight and Express Tariff No. 12 (Cal. P.U.C. No. 24) and Scope of Operations and Participating Carriers Tariff No. 4 (Cal. P.U.C. No. 6). Lang Transportation Corporation is currently a participant in all Western Motor Tariff Bureau, Inc. tariffs necessary in the operations under the certificate requested to be transferred. Seller is not a party to any through rates or joint rates with any other carrier.

Purchaser's balance sheet as of December 31, 1962, Exhibit B to the application, is summarized as follows:

ASSETS

Current		\$132,607.87
Prepayments		13,881.22
Fixed:		
Revenue Equipment	\$174,297.75	
Less Depreciation	29,916.53	
	<u>144,381.22</u>	
Other	166,425.37	
Less Depreciation	21,061.23	
	<u>145,364.14</u>	
Total Fixed Assets		\$239,745.36
Other Assets		<u>6,544.97</u>
Total Assets		<u><u>\$442,779.42</u></u>

LIABILITIES

Current Liabilities	76,183.54
Long-Term Liabilities	<u>275,166.70</u>
Total Liabilities	\$351,350.24

CAPITAL

Common Stock	\$100,000.00
Retained Earnings (Consolidated)	38,969.18
(Loss) 1/1/68 to 12/31/68	<u>(47,539.92)</u>
Total Capital	\$ 91,429.18
Total Liabilities and Capital	<u><u>\$442,779.42</u></u>

A balance sheet of seller as of November 30, 1968 is attached as Exhibit D to the application. The application alleges, and this exhibit reflects, that seller had been in the process of liquidation for some time prior to December 31, 1968.

A copy of the application was served on California Trucking Association. The matter appeared on the Commission's Daily Calendar of March 4, 1969. No protests have been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest; that good cause has been shown to allow tariff filings required herein to be made on less than thirty days' notice; and that a public hearing is not necessary.

The order which follows will provide, in the event the transfer is consummated, for the revocation of the certificate presently held by Service Tank Lines and the issuance of a certificate in appendix form to Lang Transportation Corporation.

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

Lang Transportation Corporation is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before October 31, 1969, Service Tank Lines may sell and transfer, and Lang Transportation Corporation may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser 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 upon the consummation of the transfer on not less than five days' notice to the Commission and the public. 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 authorized to be transferred by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchaser 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Lang Transportation Corporation, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

6. Lang Transportation Corporation shall not engage in the transportation of property under its petroleum irregular route certificate granted to it by Decision No. 50281 dated July 13, 1954, Application No. 35522, when such transportation is covered by the authority granted herein.

7. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decisions Nos. 42623 and 43049, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

8. Within thirty days after the effective date hereof, purchaser shall file a written acceptance of the certificate, the transfer of which is herein authorized. Purchaser is placed on notice that, if it accepts such certificate, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.

9. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

10. Purchaser shall comply with the requirements of the Commission's General Order No. 24-Series for the transportation of C.O.D. shipments. If the applicant does not elect to transport

C.C.D. shipments, applicant shall make the appropriate tariff filings as required by the General Order.

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

Dated at Los Angeles, California, this 27th day of MAY, 1969.

William J. Lyons, Jr.
President

J. B. Williams
A. W. Gato
Commissioners

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

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

Lang Transportation Corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of petroleum products, in bulk, except liquefied petroleum gases and any other petroleum products requiring pressurized tanks, other than casing head or natural gasoline requiring tanks having a working pressure of not more than 60 pounds per square inch, and except liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks, along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty (50) miles of said routes:

1. U. S. 101 and U. S. 101 By-Pass between Oregon-California State Line and California-Mexico Line;
2. U. S. 99, 99-E, and 99-W between Oregon-California State Line and the Mexican Border;
3. U. S. 299 between Redding and Alturas;
4. U. S. 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville; State Highway 36 between Junction 99-E near Red Bluff, California, and Junction U. S. 395 at Johnstonville;
5. State Highway 20 between Marysville, California, and Junction U. S. 40;
6. U. S. 40 between San Francisco and California-Nevada State Line;
7. U. S. 50 between Sacramento, California, and California-Nevada State Line;
8. U. S. 395 between California-Nevada State Line at Topaz Lake and Junction U. S. 66;
9. U. S. 66 between Los Angeles and Needles;
10. U. S. 60 between Los Angeles, California, and California-Arizona State Line;
11. U. S. 91 and 466 between Barstow and Nevada-California State Line;
12. State Highway 127 between Baker and Nevada-California State Line.

End of Appendix A

Issued by California Public Utilities Commission.

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