

ORIGINALDecision No. 75988

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;
Amended June 30, 1969)O P I N I O N

By Decision No. 73493, dated December 19, 1967, the Commission dismissed the instant application insofar as it requested authority for Encinal Terminals to acquire outstanding capital stock of Shippers Express. It was dismissed on the ground that the Interstate Commerce Commission had exclusive and plenary jurisdiction over such transfer. The order also provided that the application, to the extent that it sought authority to transfer the certificate of public convenience and necessity granted by Decision No. 60547, dated August 9, 1960 in Application No. 42198, as amended and certain assets from Encinal Terminals to Shippers Express Company, would receive further consideration upon the filing of an order indicating the course of action taken by the Interstate Commerce Commission in Docket No. MC-F-9943.

On June 30, 1969 applicants filed with this Commission a copy of the report and order of Examiner Shoup of the Interstate Commerce Commission approving (a) Encinal's acquisition of the outstanding capital stock of Shippers Express and (b) the transfer by Encinal to Shippers Express of Encinal's operating authority and property. The order also provides that prior to or concurrently with the consummation of the transfer the parties hereto furnish the Interstate Commerce Commission with a certified copy of an order of this Commission approving the transfer of the certificate granted by Decision No. 60547.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before August 1, 1970, and upon final approval of the Interstate Commerce Commission in Docket No. MC-F-9943, Encinal Terminals may sell and transfer and Shippers Express Company 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, 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 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, 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. 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.

6. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform

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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.

7. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it 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 San Francisco, California, this 5th day of AUGUST, 1969.

William J. Sproul
President
Reginald
Frank P. Brinsford
W. P. Williams
Frank
Commissioners