

Decision No. 76462

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CALIFORNIA MOTOR TRANSPORT CO., a)
California corporation, for authority)
to transfer assets, and ILLINOIS-)
CALIFORNIA EXPRESS, INC., a Nebraska)
corporation, to acquire assets.)

Application No. 49900
(Filed December 26, 1967)

O P I N I O N

California Motor Transport Co. (hereinafter at times referred to as C.M.T.) requests authority to sell and transfer and Illinois-California Express, Inc., (hereinafter referred to as I.C.X.) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier and certain property.

The certificate of C.M.T. was granted by Decision No. 64497, dated November 7, 1962, as amended by Decision No. 64819, dated January 22, 1963, in Application No. 43374, and authorizes the transportation of general commodities between points and places from Redding, on the north, to the Mexican Border, on the south. The transfer also includes a certificate of registration issued by the Interstate Commerce Commission. An appropriate proceeding pursuant to Section 5 of the Interstate Commerce Act is presently pending before the Interstate Commerce Commission. By Decision No. 73609 dated January 9, 1968, applicants were authorized to execute a temporary lease arrangement relating to the certificate and property herein considered.

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The agreed consideration is \$1,512,500 payable as follows: \$1,262,500 in cash and the balance of \$250,000 payable in 24 equal monthly installments with interest at the rate of 6% per annum. The agreement also provides that the purchase price is to be reduced by the monthly payments of \$16,875 paid pursuant to the lease.

I.C.X. is presently authorized to serve certain points and places in Southern California in interstate and foreign commerce. As of October 31, 1967, it indicates a net worth in the amount of \$4,991,647.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. Because the transfer falls within the provisions of Section 5 of the Interstate Commerce Act the transfer herein authorized will be made subject to the final approval of the Interstate Commerce Commission. A public hearing is not necessary.

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

Illinois-California Express, Inc. 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. Upon the final approval of the Interstate Commerce Commission California Motor Transport Co. may sell and transfer and Illinois-California Express, Inc., a corporation, may purchase and acquire, the operative rights and properties 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 five days after the consummation of the transfer on not less than five 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 acquired pursuant to this decision.

A. 49900 Mjo

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 transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. 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 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 25th day of NOVEMBER, 1969.

William J. Brown, Jr.
President
J. M. ...
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Commissioners