

Decision No. 76794

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
IRISH TRUCK LINES, INC.,
a California corporation, to sell, and
SAN GABRIEL VALLEY TRUCKING, INC.,
a California corporation, to purchase,
a highway common carrier operating
right for the transportation of
property pursuant to Section 851-853
of the California Public Utilities Code

Application No. 51538
(Filed December 5, 1969)
(Amendment filed
December 30, 1969)

O P I N I O N

Irish Truck Lines, Inc., a California corporation, requests authority to sell and transfer, and San Gabriel Valley Trucking Inc., a California corporation, requests authority to purchase and acquire, the highway common carrier rights operated by the seller.

The certificate to be transferred was issued by Decision No. 62669 dated October 10, 1961 in Application No. 43276, generally authorizing transportation of certain specific commodities in and between the Los Angeles basin area and the San Diego territory and including intermediate points with a five mile lateral along the connecting highways 101 and 101-A.

A copy of the articles of incorporation of the purchaser are on file with the Commission and were issued August 1, 1967. The purchaser engages in the transportation of property

pursuant to highway contract carrier and radial highway common carrier permits issued to it by this Commission.

Exhibit A attached to the application is a copy of an agreement dated October 27, 1969 by the applicants Irish and San Gabriel for sale of said certificate which does not include any other property for the total price of thirty-five thousand and no/100 (\$35,000.00) dollars payable \$10,000.00 which has heretofore been deposited in a bank account designated as the Irish Truck Line Trust Account, and the balance of \$25,000.00 payable on the closing date.

The seller has been in the motor carrier business since November 1950, and the buyer for a period of over two years and it is alleged that there is a continuing economic growth in both residential, commercial and manufacturing establishments in this area.

The application as amended alleges that Irish was engaged in intrastate commerce and interstate and foreign commerce within the State of California as a highway common carrier in the transportation of specific commodities between all points and places within the Los Angeles basin area on the one hand, and all points and places in the San Diego territory including intermediate points and places along U. S. Highways Nos. 101 and 101-A and laterally five miles on either side of said highways, on the other hand, or as more particularly set forth in Decision No. 62669, dated October 10, 1961 and that Irish also was issued permits to operate as a permitted carrier by the Public Utilities

Commission of the State of California, that Irish holds authority to operate in interstate or foreign commerce pursuant to a Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC-120822 (Sub No. 1) and has engaged therein within the aforesaid described territories.

Applicant seller alleges that it is not a party to any through routes or joint rates or fares with any other carrier as of the date hereof, and that seller has maintained the same rules and regulations and rates as are contained in Western Motor Tariff Bureau, Inc., agent, Local Joint and Proportional Freight Tariff, Scope of Operations and Participating Carriers Tariff No. 100. The buyer proposes to continue the services being rendered pursuant to the tariffs of applicant seller and requests that it be permitted to succeed to and adopt the tariffs of Irish Truck Lines, Inc.

The purchaser lists 60 pieces of equipment in Exhibit No. D attached to the application consisting of vans, tractors, stakes, trailers, pickups and a 1/2-ton Chevrolet, which are used in handling the transportation of various types of commodities. Purchaser alleges these operations are being conducted pursuant to highway contract carrier and radial highway common carrier permits, and that it is planned to utilize this equipment in future operations.

The application contains a balance sheet of applicant purchaser as of October 31, 1969 and a schedule of equipment depreciation which show purchaser's total assets to be valued at \$177,920.

It appears therefrom that the applicant purchaser possesses the experience, equipment, personnel and financial resources to institute, maintain and operate the proposed service authorized herein.

The application has been listed on the Commission's Daily Calendar of December 9, 1969 and applicant has filed proof of service of the application on the California Trucking Association and the Chamber of Commerce of Los Angeles area. The Commission Transportation Division has advised that participation by it in this proceeding is not necessary. No protest has been received.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and should be authorized. The application for transfer of the operative rights authorizing transportation of special commodities over route described in Decision No. 62669 and Appendix A attached thereto will be granted. A public hearing is not necessary.

San Gabriel Valley Trucking, 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. On or before May 1, 1970, Irish Truck Lines, Inc., a California corporation, may sell and transfer, and San Gabriel Valley Trucking, Inc., a California 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 not earlier than five days after the effective date of this order 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 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 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 17th day of FEBRUARY, 1970.

William J. Sproule, Jr.
President

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William J. Sproule, Jr.

William J. Sproule, Jr.

William J. Sproule, Jr.
Commissioners