

ORIGINAL

Decision No. 77427

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AMERICAN CARTAGE  
COMPANY and YELLOW FREIGHT SYSTEM,  
INC. for authority for the former  
to transfer operative rights to  
the latter.

Application No. 51894  
(Filed May 12, 1970)

O P I N I O N

American Cartage Company requests authority to sell and transfer, and Yellow Freight System, Inc. 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. 62104, dated June 6, 1961, in Application No. 42859 and authorizes the transportation of general commodities, with certain exceptions, between all points on or within 25 miles laterally of U. S. Highway 99, between Fresno and Tulare and within a 25-mile radius of Fresno and Tulare. The cash consideration for the transfer, which includes the transfer of corresponding interstate authority, is \$40,000.

The transfer is subject to Section 5 of the Interstate Commerce Act. Upon the approval of the Interstate Commerce Commission it is requested that the intrastate authority herein considered be restated in loose leaf form and issued to applicant purchaser.

Applicant purchaser is presently engaged as a certificated carrier for the transportation of property moving within the state in both interstate and intrastate commerce. As of September 30, 1969, applicant purchaser indicated a net worth in the amount of \$36,100,862.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by American Cartage Company and the issuance of a certificate in appendix form to Yellow Freight System, Inc.

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

Yellow Freight System, 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 approval of the Interstate Commerce Commission and on or before September 1, 1971, American Cartage Company may sell and transfer, and Yellow Freight System, Inc. 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, Yellow Freight System, Inc. 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. Yellow Freight System, Inc. 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, Yellow Freight System, Inc. 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 Yellow Freight System, Inc., 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. 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 Decision No. 62104, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, 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.

8. Yellow Freight System, Inc. 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.

9. Yellow Freight System, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation

of collect on delivery shipments. If applicant 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 30th day of JUNE, 1970.

William J. Givens, Jr.  
President  
Augusta  
William J. Givens, Jr.  
John L. Sturgeon  
Commissioners

Yellow Freight System, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

- (a) Between all points and places on or within 25 miles laterally of U.S. Highway 99 between Fresno and Tulare, inclusive.
- (b) Between all points and places within a 25 mile radius of Fresno.
- (c) Between all points and places within a 25 mile radius of Tulare.
- (d) Through routes and rates may be established between any and all points specified in subparagraphs (a) through (c) above.

The carrier shall not transport any shipments of:

- 1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
- 2. Automobiles, trucks and buses; viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles; automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
- 3. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.

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4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Commodities which by reason of their abnormal size, weight or bulk require special equipment and handling.
10. Articles of extraordinary value as set forth in Rule 3 of Western Classification 77, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
11. Commodities likely to contaminate or damage other freight.
12. Explosives as described in and subject to the regulations of Agent H. A. Campbell's Tariff No. 10.

END OF APPENDIX A

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