

Decision No. 78046

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 METAL TRANSPORT INC., a corporation,  
 to purchase, and BUDCO TRUCKING CO.,  
 INC., dba HARBOR TIGER LINES, to  
 sell, a certificate of public con-  
 venience and necessity for the  
 transport of general commodities  
 between points in the Los Angeles  
 Territory, pursuant to Section 851-  
 853 of the California Public Utili-  
 ties Code.

Application No. 52257  
 (Filed October 21, 1970)

O P I N I O N

Budco Trucking Co., Inc., doing business as Harbor Tiger Lines, requests authority to sell and transfer, and Metal Transport 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. 56714 dated May 20, 1958, in Application No. 36318, and authorizes the transportation of general commodities, with certain exceptions, between all points and places within the Los Angeles Territory. The transfer also includes certain interstate authority. The agreed cash consideration is \$10,000. A value of \$9,500 has been placed upon the interstate certificate and a value of \$500 has been placed upon the intrastate certificate.

Applicant purchaser is a recently formed corporation and as of October 13, 1970, indicated a net worth in the amount of \$25,000.

It is alleged that applicant seller is in a nonliquid position and is urgently in need of cash in order to meet its obligation to the Internal Revenue Service; that the United States, through its Department of Treasury and Internal Revenue, has filed liens on the property of applicant seller; and that pursuant to the Internal Revenue Code the Internal Revenue Service has seized the property of applicant seller and has sold said property at a public auction sale.

Metal Transport 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, these rights extend to the holder a full or partial monopoly of a class of business. 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.

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 May 1, 1971, Budco Trucking Co., Inc., doing business as Harbor Tiger Lines, may sell and transfer, and Metal Transport Inc. 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 to 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

