

Decision No. 78315

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of JAMES P. MAUGH, doing business  
as ABLE TRANSPORTATION CO.  
(formerly Stucki & Jim's Truck  
Repair Service), to transfer, and  
BORDEN TRUCKING, INC., a corpo-  
ration, to acquire a certificate  
of public convenience and necessity  
and certain intangible property  
pursuant to Sections 851 and 853 of  
the California Public Utilities  
Code.

Application No. 52290  
(Filed November 6, 1970)

O P I N I O N

James P. Maugh, doing business as Able Transportation Co., and hereinafter called Maugh, requests authority to sell and transfer, and Borden Trucking, Inc., a corporation, hereinafter called Borden, requests authority to purchase and acquire, a certificate of public convenience and necessity and certain intangible property.

Maugh is engaged in the transportation of property by motor vehicle as a highway common carrier pursuant to a certificate of public convenience and necessity granted by the Commission in Decision No. 14404, dated December 12, 1924, and acquired by seller via mesne acquisitions, culminating in Decision No. 61593, dated February 28, 1961, in Application No. 43051, as amended by Decision No. 74082, dated May 7, 1968 in Application No. 48547. Said operating rights authorized the transportation of general commodities with the usual exceptions between Los Angeles and the Los Angeles Harbor. Maugh also operates in interstate or foreign commerce pursuant to a Certificate of Registration issued by the Interstate Commerce Commission in Docket No. M.C. 120898.

The operating rights to be sold were acquired by Decision No. 61593, as amended by Decision No. 74082. The agreed cash consideration is \$9,500 and Borden has agreed to operate the same schedules and to charge the same rates as Maugh. Maugh is anxious to cease serving daily as a certificated highway common carrier and Borden is eager to take over the Maugh routes and schedules. As of July 31, 1970 the purchaser's balance sheet indicated a net worth of \$95,000.

The application was listed on the Commission's Daily Calendar and a copy of the application was mailed to the California Trucking Association in Burlingame and Los Angeles, as well as to a group of law firms which represent a large segment of the trucking industry. No protests have been received.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. Applicants should be permitted to deviate from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure and the application should be granted.

Borden Trucking, Inc., a corporation, 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.

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

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1971, James P. Maugh, doing business as Able Transportation Co., may sell and transfer, and Borden Trucking, Inc., a 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-F.


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.

8. Applicants may deviate from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day of FEBRUARY, 1971.

  
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Chairman

  
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Vernon L. Stinson  
  
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Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.