

Decision No. 78541

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PORTOLA DRAYAGE CO., a California)
 corporation, to transfer a certifi-)
 cate of public convenience and)
 necessity to JAMES LIVESAY, an in-)
 dividual, doing business under the)
 fictitious name of Golden Bay)
 Freight Lines, and of JAMES LIVESAY,)
 an individual, doing business under)
 the fictitious name of Golden Bay)
 Freight Lines, to acquire said cer-)
 tificate of public convenience and)
 necessity.)

Application No. 52469
 (Filed February 25, 1971)

O P I N I O N

Portola Drayage Co. requests authority to sell and transfer, and James Livesay, doing business as Golden Bay Freight Lines, 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. 60839, dated October 4, 1960, in Application No. 42114, and authorizes the transportation of general commodities with certain exceptions to and between points in the greater San Francisco Bay Area, and is the subject of a coextensive certificate of registration issued by the Interstate Commerce Commission. The agreed consideration is \$35,000 to be paid as follows: \$1,000 in cash and the balance to be secured by a promissory note payable in monthly installments of \$1,000 each, together with interest at the rate of 8 percent per annum on the unpaid balance.

Applicant purchaser is presently conducting operations as a permitted carrier and as of December 31, 1970 indicated a net worth in the amount of \$13,663.

After consideration the Commission finds that the proposed sale would not be adverse to the public interest and that the property to be procured by the issue of the indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

James Livesay 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 September 1, 1971, Portola Drayage Co. may sell and transfer, and James Livesay 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 he has adopted or established, as his 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 operation 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 herein granted. Purchaser is placed on notice that if he accepts the certificate of public convenience and necessity herein granted, he 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 his 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

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Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his 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 applicant elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

8. Purchaser is authorized to execute a promissory note in the amount of \$34,000.

9. The authority herein granted to issue a note will become effective when purchaser has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$68. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of APRIL, 1971.

[Signature] Chairman
William Seymour
[Signature]
Thomas L. Sturgeon
[Signature] Commissioners

