

ORIGINAL

Decision No. 79462

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of ONAN H. MARBUT, doing business
as TRIANGLE TRANSFER COMPANY, to
sell and transfer a Certificate of
Public Convenience and Necessity,
together with the business, assets,
and good will pertaining thereto
to THOMAS G. BAILEY.

Application No. 52973
(Filed November 4, 1971)

O P I N I O N

Onan H. Marbut, doing business as Triangle Transfer Company, requests authority to sell and transfer, and Thomas G. Bailey requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operation as a highway common carrier as well as certain property.

The certificate was granted by Decision No. 74082, dated May 7, 1968, in Application No. 48547 and authorizes the transportation of property between Fresno, Sunnyside, Clotho, Sanger, Centerville, Clovis and intermediate points. The sale also provides for the transfer of corresponding interstate authority. The agreed consideration for the transfer of said certificate, four motor vehicles and carriers office equipment is \$17,000 payable as follows: \$5,000 in cash and the balance payable in monthly installments of not less than \$200, with interest at the rate of 6 percent per annum on the unpaid balance.

Applicant purchaser has been actively engaged in the transportation business for many years and as of October 15, 1971, indicated a net worth in the amount of \$22,900.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the money to be provided or paid for 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. 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 Onan H. Marbut and the issuance of a certificate in appendix form to Thomas G. Bailey.

Purchaser 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 March 1, 1972 Onan H. Marbut may sell and transfer, and Thomas G. Bailey 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, 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 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 Thomas G. Bailey, authorizing him 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. 38416, dated November 20, 1945, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547, 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 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.

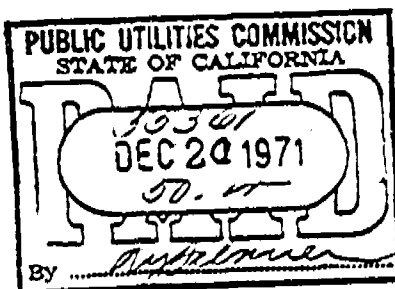
8. Purchaser shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. 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, he shall make the appropriate tariff filings as required by the General Order.

10. Thomas G. Bailey may execute evidence of indebtedness in the amount of \$12,000.

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 \$50. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 14th day of DECEMBER, 1971.



[Signature] Chairman
[Signature]
[Signature]
[Signature] Commissioners

Thomas G. Bailey, 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 by Section 213 of the Public Utilities Code for the transportation of general commodities: (a) Between Fresno, Sunnyside, Clotho, Sanger, Centerville, and intermediate points, and (b) Between Sunnyside and Clovis and intermediate points.

Applicant shall not transport any shipments of trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 79462, Application No. 52973.