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**ORIGINAL**

Decision No. 79605

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 (a) FITZ-GERALD TRUCKING SERVICE, INC.  
 a corporation, to transfer its Petroleum Irregular Route Certificate of Public Convenience and Necessity; and  
 (b) LANG TRANSPORTATION CORPORATION, a California corporation, to acquire said Certificate. (Public Utilities Code Section 851.)

Application No. 52897  
 (Filed September 30, 1971)

O P I N I O N

This is an application by Fitz-Gerald Trucking Service, Inc., (hereinafter referred to as Fitz-Gerald) and Lang Transportation Corporation (hereinafter referred to as Lang) in which applicants seek authority for Fitz-Gerald to sell and Lang to acquire Fitz-Gerald's certificate of public convenience and necessity to operate as a petroleum irregular route carrier.

Fitz-Gerald presently holds a certificate of public convenience and necessity to operate as a petroleum irregular route carrier granted in Decision No. 75408 in Application No. 50814. The certificate was suspended in September, 1970 for failure to maintain adequate liability insurance.

Lang presently operates under the following authority granted by this Commission: highway common carrier for the transportation of petroleum products, cement carrier, petroleum irregular route carrier, radial highway common carrier and highway contract carrier.

The verified application avers that if it is granted Lang will activate the operating rights by maintaining the required liability insurance; that this would benefit the public in the area covered by the certificate and that it would permit Lang to provide

better service in a greater area to its existing customers. The application indicates that Lang has personnel with many years of experience in the transportation of petroleum and petroleum products. Lang presently operates 25 units of equipment in its petroleum operations. Lang's unaudited balance sheet and profit and loss statement as of July 31, 1971, indicates that it has depreciated fixed assets of \$641,318 and operating revenues in its bulk commodities operations for the preceeding seven months of \$246,532.

Fitz-Gerald and Lang entered into an agreement, subject to the approval of this Commission, for the sale of the operating rights to Lang for \$1,750. Copies of the application were served upon the California Trucking Association, Standard Oil Company of California, Mobil Oil Corporation, Atlantic-Richfield Company, Union Oil Company and Shell Oil Company. No protests to the application have been received by the Commission.

The Commission makes the following findings and conclusions:

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The transfer of Fitz-Gerald's certificate of public convenience and necessity to operate as a petroleum irregular route carrier, to Lang would not be adverse to the public interest.
3. Lang has the ability, including financial ability, to conduct operations under said certificate.
4. To avoid confusion among the shipping public and assist the Commission in the performance of its regulatory functions, the operating rights herein transferred should be restated in appendix form.

Conclusions of Law

1. Fitz-Gerald should be authorized to sell and transfer and Lang to purchase and acquire Fitz-Gerald's certificate of public convenience and necessity as a petroleum irregular route carrier.

2. The certificate herein authorized to be transferred should be restated in appendix form.

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

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1972, Fitz-Gerald Trucking Service, Inc., may sell and transfer, and Lang Transportation Corporation may purchase and acquire the operating rights set forth in Appendix 1, attached hereto.

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 petroleum irregular route 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. In the event the transfer authorized in paragraph 1 hereof is consummated, the operating rights set forth in Appendix 1 attached hereto and made a part hereof are issued in lieu of and will supersede the rights set forth in Decision No. 75408 in Application No. 50814, Decision No. 44383 in Application No. 31243, Decision No. 50281 in Application No. 35522 and Decision No. 73930 in Application No. 35522 which are hereby cancelled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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9. Lang Transportation Corporation shall not engage in the transportation under its petroleum irregular route certificate granted herein as set forth in Appendix 1 attached hereto when such transportation is covered by the highway common carrier authority of Lang Transportation Corporation.

This order shall become effective when the fee of \$150 provided in paragraph 13 of General Order No. 100-F has been paid, but in no event before twenty days after the date hereof.

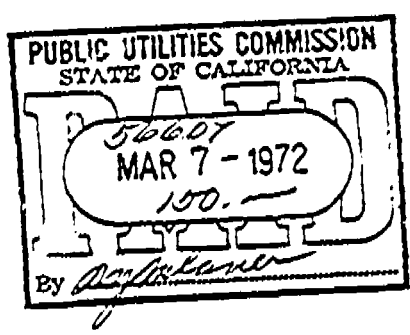
Dated at San Francisco, California, this 18th day of JANUARY, 1972.

[Signature]  
Chairman

[Signature]  
Vernon L. Stevenson

[Signature]  
Commissioners

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



Appendix 1

Appendix B

LANG TRANSPORTATION CORPORATION

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Lang Transportation Corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code for the transportation of petroleum and petroleum products in bulk in tank trucks or tank trailers between all points and places in the State of California.

(End of Appendix 1 which  
adds Appendix B to the  
operating authority of  
Lang Transportation Corporation)

Issued by California Public Utilities Commission.

Decision No. 79605, Application No. 52897.