

Decision No. 73695

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
A. F. Express Co., Inc., to Sell  
and Transfer a Certificate of Public  
Convenience and Necessity to Shane  
Truck Line, Inc.

Application No. 53054  
(Filed December 16, 1971)

O P I N I O N

A. F. Express Co., Inc., requests authority to sell and transfer, and Shane Truck Line, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier. Authority is also sought by applicant purchaser to execute a promissory note.

The certificate was granted by Decision No. 61475, dated February 14, 1961, in Application No. 42106 and authorizes the transportation of general commodities, with certain exceptions, between the Counties of Butte, Contra Costa, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba; and between said Counties, on the one hand, and the San Francisco Territory, on the other hand. Said operating authority was suspended by Commission resolution, dated April 27, 1971, for failure to maintain a classification in effect in compliance with Section 493 of the Public Utilities Code.

The agreement between the parties also provides for the transfer of corresponding interstate authority. The agreed cash consideration is \$70,000 which is to be paid as follows: \$5,000 in cash and \$65,000 to be secured by a promissory note payable by March 10, 1974, with interest at the rate of 6 percent per annum.

Applicant purchaser is a newly formed corporation. It owns and operates 21 units of equipment and as of August 15, 1971, indicated a net worth in the amount of \$54,655.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the property to be procured or paid for by the execution of the evidence of 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. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by A. F. Express Co., Inc., and the issuance of a certificate in appendix form to Shane Truck Line, Inc. A public hearing is not necessary.

Shane Truck Line, 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, 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 December 1, 1972, A. F. Express Co., Inc., may sell and transfer, and Shane Truck Line, 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 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 Shane Truck Line, Inc., a corporation, authorizing it 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 Appendices A and B 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. 61475 dated February 14, 1961 in Application No. 42106, as amended by Decision No. 75152 dated December 27, 1968 in Application No. 50694, 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 it accepts the certificate of public convenience and necessity herein granted, 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-Series.

8. 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.

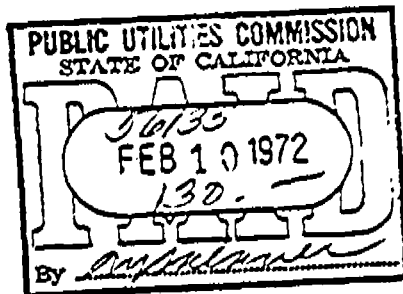
9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport

collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

10. After the effective date hereof, Shane Truck Line, Inc. may execute a promissory note in the amount of \$65,000.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$130. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Diego, California, this 5th day of FEBRUARY, 1972.



William J. Vukasin, Jr. Chairman  
Thomas L. Stanger  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Shane Truck Line, Inc., 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 in Section 213 of the Public Utilities Code for the transportation of general commodities as follows:

1. BETWEEN all points and places in the Counties of Butte, Contra Costa, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba.
2. BETWEEN points in the San Francisco Territory as described in Appendix B attached hereto, on the one hand, and, on the other hand, all points and places in the Counties described in paragraph 1 above.
3. THROUGH routes and rates may be established between any and all points described in paragraph 1 above.
4. Applicant may use any and all highways and roads between the areas described for operating convenience only.
5. No local service is authorized between points located in the San Francisco Territory as described in Appendix B attached hereto.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, truck and trailers combined, buses and bus chassis. (See Note.)

NOTE: This exception does not apply when the vehicle is crated, or tendered as part of a mix shipment with other commodities, provided said crated vehicle or vehicle tendered as a part of a mixed shipment is not transported in special truckaway equipment.

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3. Livestock, viz.: Boars, bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
5. Fresh or green fruits or vegetables (not cold pack nor frozen) when:
  - a. The point of destination is a cannery, accumulation station, cold storage plant, precooling plant, or winery.
  - b. Transported from the field or point of growth to a packing plant, or packing shed. (See exception)

EXCEPTION

Except for the transportation of citrus fruits in field boxes or in bulk, or avocados, the provisions of paragraph 5 will not apply when the distance between point of origin and point of destination exceeds 50 constructive miles.

- c. For the transportation of sugar beets, the point of destination is a beet sugar factory or a railroad loading dump.
6. Logs.
7. Asphalt, natural by-product or petroleum; asphalt emulsion; and, petroleum or petroleum products when transported in bulk in tank trucks and/or tank trailers.

(END OF APPENDIX A)

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SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U. S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U. S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U. S. Highway 101; northwesterly along U. S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U. S. Highway 40 (San Pablo Avenue); northerly along U. S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

(END OF APPENDIX B)

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