

Decision No. 80561

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CHESLEY TRANSPORTATION CO., INC.,)
A California Corporation, for author-)
ity to transfer operating rights to)
HEAVY HAUL TRUCK SERVICE, INC., A)
California Corporation.)

Application No. 53354
(Filed May 25, 1972;
Amended August 14, 1972)

O P I N I O N

By their application, as amended, Chesley Transportation Co., Inc., requests authority to sell and transfer, and Heavy Haul Truck Service, Inc., 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. 61560, dated February 21, 1961, in Application No. 42996, and authorizes the transportation of property used in the construction of roads, dams and bridges; materials and equipment used in the construction of and destined for power and compressor plants; and property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipelines, refineries and cracking or casing head plants, between points within the State of California. The agreement also provides for the transfer of certain interstate authority. The agreed cash consideration is \$10,000.

Applicant seller is the sole shareholder of applicant purchaser, and the officers and directors of both corporations are identical.

It is alleged that because of business and economic reasons applicant seller proposes to discontinue all of its transportation activities in intrastate, interstate and foreign commerce; that applicant purchaser, pursuant to a corporate reorganization plan, was established to provide a transportation service in the State of California; and that the proposed transfer will perpetuate the existing service presently provided by applicant seller.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 applicant seller and the issuance of a certificate in appendix form to applicant purchaser.

Heavy Haul Truck Service, 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.

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, Chesley Transportation Co., Inc., may sell and transfer, and Heavy Haul Truck Service, Inc., may purchase and acquire, the highway common carrier 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-Series. Failure to comply with and observe the provisions of General Order No. 80-Series 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 Heavy Haul Truck Service, Inc., 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 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. 61560 in Application No. 42996, 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.

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

Dated at San Francisco, California, this 3rd day of OCTOBER, 1972.

Yerron L. Stenger
President
William Lyons
William Lyons
John Lyons
William Lyons
Commissioners

Heavy Haul Truck Service, Inc., a corporation, by the certificate of public convenience and necessity granted by 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:

- A. Property necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water well, pipe lines, refineries and cracking or casing head plants;
- B. Material and equipment used in the construction of roads, dams and bridges; and
- C. Material and equipment used in the construction of and destined for power and compressor plants;

BETWEEN any and all points on and within 50 miles laterally of the following named highways:

- 1. BETWEEN the California-Oregon State Line and the California-Mexico Border Line:
 - a. U.S. Highway 101 and 101 By-Pass between California-Oregon State Line and Los Angeles; Interstate Highway 5 between Los Angeles and California-Mexico Border Line.
 - b. Interstate Highway 5 between California-Oregon State Line and Sacramento; State Highway 99 between Red Bluff and Wheeler Ridge; (State Highway 65 between Marysville and Roseville; Interstate Highway 80 between Roseville and Sacramento); Interstate Highway 5 between Wheeler Ridge and Los Angeles; State Highway 60 between Los Angeles and Beaumont; Interstate Highway 10 between Beaumont and Indio; State Highway 86 between Indio and California-Mexico Border Line via Calxico.

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2. State Highway 299 between Redding and Alturas.
3. U.S. Highway 395 between California-Oregon State Line and the California-Nevada State Line, via Alturas and Johnstonville.
4. State Highway 36 between junction Interstate Highway 5 (near Red Bluff) and junction U.S. Highway 395 (near Johnstonville).
5. State Highway 20 between Marysville and junction Interstate Highway 80.
6. Interstate Highway 80 between San Francisco and California-Nevada State Line.
7. U.S. Highway 50 between Sacramento and California-Nevada State Line.
8. U.S. Highway 395 between California-Nevada State Line at Topaz Lake and junction Interstate Highway 15.
9. Los Angeles to Needles via Interstate Highways 10, 15 and 40.
10. Los Angeles to California-Arizona State Line via State Highway 60, Interstate Highway 10 and Blythe.
11. Interstate Highway 15 between Barstow and California-Nevada State Line.
12. Interstate Highway 8 between San Diego and California-Arizona State Line.
13. State Highway 127 between Baker and California-Nevada State Line.

(END OF APPENDIX A)

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