

Decision No. 80903

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RINGSBY-PACIFIC, LTD., )  
a corporation, to sell and transfer, )  
and of DELTA LINES, INC., a corpora- )  
tion, to purchase and acquire a )  
Certificate of Public Convenience )  
and Necessity. )

Application No. 53518  
(Filed August 10, 1972)

O P I N I O N

Ringsby-Pacific, Ltd., a corporation (Ringsby), seeks authority to sell and transfer its California intrastate certificate to operate as a highway common carrier of general commodities to Delta Lines, Inc., a corporation. Ringsby also holds authority to transport commodities in bulk in tank vehicles which is not involved in the requested transfer. The proposed sale does not include any equipment, terminals, or business other than the certificate.

The highway common carrier certificate sought to be transferred is an in lieu certificate issued to Ringsby by Decision No. 78692, dated May 12, 1971, in Applications Nos. 52107 and 52146. The certificate generally covers the area from San Francisco and Sacramento on the north to San Diego on the south. Ringsby was also authorized to transfer its intrastate authority north of Sacramento to two other carriers by Decision No. 78692.

Delta operates pursuant to highway common carrier and permitted authority throughout a substantial part of the state. Delta Express, an express corporation, is an affiliate of Delta. As of June 30, 1972, Delta had assets of \$12,891,786, liabilities of \$9,220,069 and capital stock and surplus of \$3,671,717. Its net income before provision for income taxes for the first six months of 1972 was \$817,943.

The application asserts that upon approval of the sought transfer Ringsby will no longer operate as a general commodity highway common carrier in California; that Delta is a long-established,

experienced carrier and is in a position to provide service to the public in the areas encompassed by the certificate in issue; and that the proposed transfer is in the public interest.

The certificate of service attached to the application shows service by mail on the California Trucking Association on August 10, 1972. The application was listed on the Commission's Daily Calendar of August 14, 1972. Willig Freight Lines, by letter dated October 20, 1972, protested the application. The letter states no justification for the delay in filing the protest. Nor does it contain any allegations or arguments to apprise the Commission or applicants of any issues of law, policy, or fact which would require hearing or argument.

The protest will therefore not be considered in the disposition of this proceeding.

After consideration, the Commission finds that the proposed transaction would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The Commission concludes that the application should be granted as provided in the order which follows.

Because of the apparent possibility of duplications in the operating rights of the transferor and the transferee, the order herein will provide, in the event the transfer is consummated, that Delta shall notify the Commission of all duplications within 90 days thereof; that the Commission will thereupon issue an in lieu certificate to Delta which will eliminate all duplications in the authority herein authorized to be transferred; and that should there be any differences in the transportation rates and rules of the transferor and the transferee applying within any duplicated areas, the rates and regulations of Delta shall prevail.

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

The transferee 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, these rights extend to the holder a full or partial monopoly of a class of business. 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.

Applicants, who both hold operating authorities from the Interstate Commerce Commission, are placed on notice that in the event there are any interstate aspects involved in the transfer herein, the Interstate Commerce Commission would have exclusive jurisdiction over the entire transaction pursuant to Section 5 of the Interstate Commerce Act. In such circumstances, the order herein would have no force or effect without prior authorization from the Interstate Commerce Commission.

O R D E R

IT IS ORDERED that:

1. On or before June 1, 1973, Ringsby-Pacific, Ltd., a corporation, may sell and transfer, and Delta Lines, Inc., a corporation, may purchase and acquire, the highway common carrier certificate for the transportation of general commodities, referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, the transferee 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.a. Within ninety days after the consummation of the transfer herein authorized, the transferee shall notify the Commission, in writing, of any duplications that may exist in the certificate in issue and the certificated authority currently held by it.

b. Upon receipt of said notice, an in lieu certificate will be issued to the transferee which will eliminate all of said duplications from the certificate herein authorized to be transferred.

c. In the event there are any differences in the transportation rates and rules of the transferor and the transferee applying within any duplicated areas in the certificate herein authorized to be transferred and the certificated authority currently held by the transferee, the rates and rules of the transferee shall apply in said duplicated areas, and the rates and rules of the transferor applying therein shall be canceled.

4. Subject to ordering paragraph 3.c., the transferee shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the highway 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 acquired pursuant to this decision.

5. Within thirty days after the transfer herein authorized is consummated, the transferee shall file a written acceptance of the certificate. The transferee 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-Series.

6. The transferee 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. The transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If the transferee 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 JANUARY, 1973.

Vernon L. Sturgeon  
President

John P. Vukasin, Jr.  
Ed. D. O'Connell  
Commissioners

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