

Decision No. 81588

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of G & H TRANSPORTATION, INC.,
to acquire a certificate of pub-
lic convenience and necessity,
and B. W. HODGE TRANSPORTATION,
INC., a corporation, to transfer,
pursuant to Section 851 et seq.,
of the California Public Utilities
Code.

Application No. 53980

(Filed April 18, 1973)

O P I N I O N

B. W. Hodge Transportation, Inc. (transferor) seeks authority to transfer, and G & H Transportation, Inc. (transferee) seeks authority to acquire, the certificate of public convenience and necessity as a highway common carrier granted to transferor by this Commission by Decision No. 62198 dated June 27, 1961 in Application No. 43112.

Applicants allege that the transferor is a wholly owned subsidiary of the transferee and maintains its principal place of business at the same address as the transferee; that the transferor is engaged in the transportation of general commodities between Los Angeles and the San Diego Territory and certain intermediate points; that the transferee acquired control of the transferor through purchase of all of its outstanding stock under authority of the Interstate Commerce Commission, in proceeding No. MC-F-11536, dated August 7, 1972, which required that a plan to put the two operations together be submitted within a time specified; that the plan involves the transfer of the rights of the transferor to the transferee; that this application is necessary

to effect the transfer of the intrastate certificate held by the transferor; and that upon approval by this Commission of the transfer of the intrastate rights, completion of the transfer will be delayed until final approval is obtained from the Interstate Commerce Commission to transfer the corresponding certificate of registration.

The applicants further allege that the transferee conducts operations within a portion of the Los Angeles Basin Area as a highway common carrier, pursuant to Decisions Nos. 54906, 55955, and 74082, and has been operating the properties of the transferor herein, and combining the rights of both the transferor and the transferee into one company will achieve corporate simplification; and that all transportation facilities owned by transferor will be leased to the transferee so that the same equipment and facilities will continue to provide the service presently offered by transferor.

Findings

1. The proposed transfer would not be adverse to public interest.
2. The Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.
3. A public hearing is not necessary.

Conclusion

The Commission concludes that the application should be granted.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates presently held by the applicants and the issuance of a certificate in appendix form to G & H Transportation, Inc. This certificate will be restated, but such restatement will not change or broaden the authority.

G & H Transportation, Inc. is 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. 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 November 30, 1973 B. W. Hodge Transportation, Inc. may transfer, and G & H Transportation, Inc. may acquire, the operative rights granted to transferor by Decision No. 62198 dated June 27, 1961 in Application No. 43112, as amended by Decision No. 74082 dated May 7, 1968 in Application No. 48547.

2. Within thirty days after the completion of the transfer herein authorized, G & H Transportation, Inc. shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any instrument of transfer which may be executed to effect said transfer.

3. G & H Transportation, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations referred to 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 G & H Transportation, Inc. 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 B. W. Hodge Transportation, Inc. 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 completed, a certificate of public convenience and necessity is granted to G & H Transportation, 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 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 certificates of public convenience and necessity granted by Decisions Nos. 54906, 55955, 62198, and 74082, which certificates are 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, G & H Transportation, Inc. shall file a written acceptance of the certificate herein granted. G & H Transportation, Inc. 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.

8. G & H Transportation, Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System 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. G & H Transportation, Inc. 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 10th day of JULY, 1973.

Vernon L. Stenger
President

J. P. Dickinson

Wm. W. Simon, Jr.

Wm. W. Simon, Jr.
Commissioners

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

G & H Transportation, 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:

- A. Between all points in that portion of the Los Angeles Basin Territory described in Note A.
- B. Between the City of Los Angeles, on the one hand, and the following, on the other hand;
 - (1) All points and places within the San Diego Territory as described in Note B.
 - (2) All points and places on and within five miles laterally of the following routes:
 - (a) Interstate Highway 5 between Oceanside and San Diego, inclusive, including the off-route point of Camp Pendleton.
 - (b) State Highway 78 between its junction with Interstate Highway 5 near Oceanside and Escondido, inclusive.
 - (c) Interstate Highway 15 between Escondido and San Diego, inclusive.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

- 1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B.

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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, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

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Note A

PORTION OF THE LOS ANGELES BASIN TERRITORY

That portion of the Los Angeles Basin Territory referred to in paragraph A, preceding, is described as follows: Beginning at the intersection of State Highway 27 and State Highway 1; northerly on State Highway 27 to U. S. Highway 101; westerly on U. S. Highway 101 to a point where the city limits of the City of Los Angeles is intersected thereby; northerly and easterly along said city limits of Los Angeles to a point from which an imaginary line drawn easterly intersects Sepulveda Boulevard; easterly from such point along such imaginary line to Sepulveda Boulevard; southerly on Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to MacLay Avenue; northeasterly along MacLay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to and including the City of Redlands; westerly along Interstate Highway 10 to Interstate Highway 15 (U. S. Highway 395); southerly along Interstate Highway 15 to Alessandro; westerly along Van Buren Boulevard to Arlington; southwestly along Magnolia Avenue to State Highway 91; westerly along State Highway 91 to State Highway 55; southerly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

Included within the territory immediately above described are all places within the corporate limits of any city which is bisected by the State, the U. S. or interstate highways and county roads constituting the boundary of such territory between Yucaipa and Newport Beach.

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Appendix A

G & H TRANSPORTATION, INC.
(a corporation)

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Note B

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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