

ORIGINAL

Decision No. 81626

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) HOBBS TRUCKING CO., a corporation,
to purchase, and or ORLO M. HOBBS,
CHARLES W. HOBBS and MILES P. NESBITT,
copartners doing business as HOBBS
TRUCKING CO., to sell, a certificate
of public convenience and necessity
for the transportation of general
commodities, as a highway common carrier,
between points in the Los Angeles Basin
Territory, and special commodities be-
tween various points in California,
pursuant to Sections 851-853 of the
California Public Utilities Code.

Application No. 54004
(Filed May 2, 1973)

(b) HOBBS TRUCKING CO., a corporation,
to issue shares of its common capital
stock, pursuant to Sections 816-830 of
the California Public Utilities Code.

O P I N I O N

Applicants seek an order of the Commission authorizing the transfer of a certificate of public convenience and necessity from a partnership to a corporation.

In support of the requests, applicants allege that Orlo M. Hobbs, Charles W. Hobbs, and Miles P. Nesbitt (the partnership) are copartners doing business under the fictitious firm name of Hobbs Trucking Co.; that Hobbs Trucking Co. (Hobbs) was incorporated as a California corporation on January 24, 1973; that Hobbs has neither assets nor liabilities and has not heretofore conducted any business operations of any kind nor does it hold any operating authority or conduct any motor carrier operations whatsoever; that the partnership is the owner and holder of the certificate of public convenience and necessity issued by the Commission in Decision No. 60546 dated August 9, 1960 which it acquired by Decision No. 70353

dated February 15, 1966, from W. Harold Finley, Inc.; that the certificate authorizes the transportation of general commodities, with some exceptions, between points in the Los Angeles Basin Territory, and fruits, fresh or green (not cold pack or frozen), between various points in California; that the partnership also is the owner and holder of a co-extensive Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC-119326, Sub-No. 4, under the provisions of Section 206(a)(7) of the Interstate Commerce Act; that the partnership is also engaged in the transportation of property between points in the State pursuant to highway carrier permits; and that Hobbs seeks authority to purchase, and the partnership seeks authority to sell, pursuant to Section 851 of the California Public Utilities Code, the partnership's certificate.

The applicants further allege that Hobbs proposes to acquire certain of the partnership's service equipment, office equipment, dock equipment, tools, and permits, and the certificate of registration at the book value as of December 31, 1972, together with the goodwill, without assigned book value, subject to described liabilities, in consideration of the issuance to the individual partners shares of the stock of Hobbs at par value in an amount equal to the net book value of the portion of the motor carrier business to be acquired, except none of the capital stock of Hobbs will be issued to the members of the partnership for any of their operating authorities which shall be transferred to Hobbs without consideration; that the cash surplus of the partnership will not be transferred to Hobbs; and that the operating equipment of the partnership will be retained by it and leased to Hobbs.

The applicants allege that the articles of incorporation of Hobbs authorize the issuance of 7,500 shares of common capital

stock at \$10.00 each share; that this is the only class of shares authorized; that Hobbs presently has no shares of stock either issued or outstanding; that Hobbs, pursuant to the provisions of Sections 816-830 of the California Public Utilities Code, seeks authority to issue 379 shares of its common capital stock, at a par value of \$10.00 each share, to Orlo M. Hobbs, 379 shares to Charles W. Hobbs, and 379 shares to Miles P. Nesbitt in consideration of the sale and transfer to Hobbs of a portion of the assets of the partnership, at a total book value of \$162,443 as of December 31, 1972, subject to described liabilities as of the same date in the aggregate of \$151,073; that the operating equipment and the cash surplus will be retained by the partnership and do not constitute any part of the consideration for the proposed transaction.

Applicants allege that the proposed transfer, and the issuance of shares of common capital stock by Hobbs will be in the public interest for the reasons that Hobbs will continue to conduct the motor carrier operations of the partnership without interruption of service; that there will be available to the public all of the motor vehicle equipment of the partnership along with such other assets, including cash, as are necessary to continue the business on a sound basis; that the members of the partnership, as the officers and sole shareholders of Hobbs will continue to participate in the management of the common carrier service to the benefit of the public now utilizing the service; and that there will be no change in the rates and other charges now assessed to the public.

Findings

1. Hobbs should be authorized to purchase and the partners should be authorized to sell to Hobbs the certificate of public convenience and necessity referred to above.
2. The transfer of such rights will not be adverse to the public interest.

3. Hobbs has the financial resources, experienced personnel, and facilities to conduct the business of a common carrier.

4. Hobbs should be authorized to issue to the partners, at the stated par value of \$10.00 per share, 1,137 shares of its common capital stock for the purposes stated in this opinion.

5. Hobbs should be authorized to adopt and place in effect all of the partnership's tariffs.

6. The proposed stock issue is for proper purposes.

7. The money, property, or labor to be procured or paid for by the issue of the stock 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.

8. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

9. A public hearing is not necessary.

Conclusion

The Commission concludes that the application should be granted.

The authorization herein granted shall not be construed as a finding of value of the rights or properties herein authorized to be transferred, or of the stock of Hobbs Trucking Co. So far as the rights are concerned the authorization herein granted is for the transfer of the highway common carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by the partnership and the issuance of a certificate in appendix form to Hobbs Trucking Co., a corporation, which certificate will not exceed in scope the certificate presently held by the partners.

Hobbs Trucking Co., a corporation, 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 December 31, 1973, Orlo M. Hobbs, Charles W. Hobbs, and Miles P. Nesbitt may sell and transfer, and Hobbs Trucking Co., a corporation, may purchase and acquire, the operative rights and property referred to in the application.
2. Within thirty days after the transfer the purchaser shall file with the Commission a written acceptance of the certificate and a true copy of the bill of sale or other instrument of 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. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Hobbs Trucking Co., a corporation, authorizing it to operate as a highway common carrier, as

defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity as a highway common carrier granted by Decisions Nos. 60546 and 70353 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. 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.

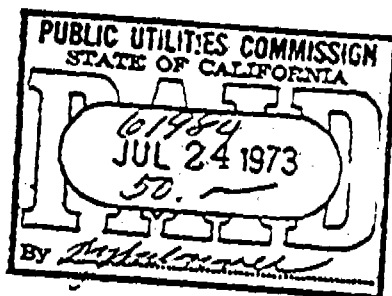
8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Hobbs Trucking Co. may issue and sell to the partners not to exceed 1,137 shares of its common stock at the stated par value of \$10.00 per share for the purposes specified in the opinion herein.

10. Hobbs Trucking Co., a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

11. The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.00. In other respects the effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 24th day of JULY, 1973.



[Signature] President
[Signature]
[Signature]
[Signature] Commissioners

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

Hobbs Trucking Co., 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:

1. General commodities, between:
All points and places in the Los Angeles Basin Territory as described in Note A.
2. Fruits, fresh or green (not cold pack or frozen), between:
Santa Paula, Fillmore, Santa Susanna, Placentia, Piru, Camarillo, Ojai, Ventura, Montalvo, Oxnard and Point Mugu, on the one hand, and Santa Ana and Ontario, on the other hand.
3. Fruits, fresh or green (not cold pack or frozen), between:
Escondido, El Cajon, on the one hand, and Ontario, on the other hand.

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.
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.

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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. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Note A

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along 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

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and its prolongation to the Los 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 Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

(END OF APPENDIX A)

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