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Decision No. 81779

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Raymond E. Pilsley, an individual, doing business as Pilsley Transportation Service, and Melvin Rodrigues, an individual, doing business as Rodrigues Transportation Service, for authority to sell and transfer operating rights of a highway common carrier and for issuance of evidence of indebtedness.

Application No. 53918
(Filed March 26, 1973)

O P I N I O N

Raymond E. Pilsley, an individual, doing business as Pilsley Transportation Service, requests authority to sell and transfer and Melvin Rodrigues, an individual, doing business as Rodrigues Transportation Service, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier and certain property. Authority is also requested to issue promissory notes totaling \$80,000.

The certificate was granted by Decision No. 65371, as amended, and authorizes the transportation of general commodities, with certain exceptions, between Willits, on the one hand, and Dos Rios and Covelo, and intermediate points between Dos Rios and Covelo, on the other hand. Service is restricted to the movement of traffic interlined with Northwestern Pacific Railroad, Pacific Motor Trucking Company, and Pacific Motor Transport and interchanged with said carriers at Willits. The transfer also includes the sale of corresponding interstate authority, real property valued at \$30,000, motor equipment valued at \$50,000, and inventory and operating authority valued at \$25,000. The total consideration of \$105,000 is to be paid as follows:

- (a) \$25,000 is to be paid in cash.
- (b) The balance of \$80,000 is to be secured by three promissory notes of \$40,000, \$25,000, and \$15,000, payable in monthly installments with interest at the rate of 7 percent per annum.

Purchaser is presently engaged as a permitted carrier. He owns and operates five units of equipment and as of September 1, 1972 indicated a net worth of \$77,800.

The money, property, or labor to be procured or paid for by the issue of the notes authorized by this decision are reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

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

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 authorization granted shall not be construed as a finding of the value of the rights and properties authorized to be transferred. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Raymond E. Polsley and the issuance of a certificate in appendix form to Melvin Rodrigues.

The operating authority to be transferred was suspended by Decision No. 81008 dated January 30, 1973 in Application No. 46498 for a period of one year at the carrier's request because of insurance cancellation. That decision further provided that the reinstatement fee of \$150, required by General Order No. 100-G, be deferred until such time as the authority was to be reinstated. Therefore, the payment of the \$150 fee will be required as a condition of the transfer authorized herein.

Melvin Rodrigues 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 1, 1973, and after having paid the reinstatement fee of \$150, required by Decision No. 81008, Raymond E. Polsley may sell and transfer the operative rights and property referred to in the application to Melvin Rodrigues.

2. Within thirty days after the transfer the purchaser shall file with the Commission 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 transferred to show that he has adopted or established, as his own, the 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 transfer. 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 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 transfer the 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 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 Melvin Rodrigues authorizing him 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.

6. The certificate of public convenience and necessity granted to Raymond Polsley by Decision No. 65371, as amended by Decisions Nos. 68532, 68954, 69748, 74082, and 74541, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. 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.

8. Purchaser shall maintain his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

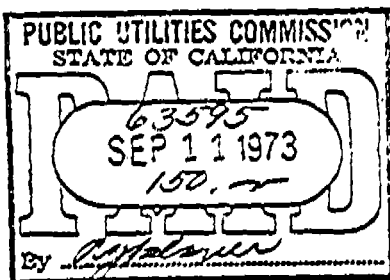
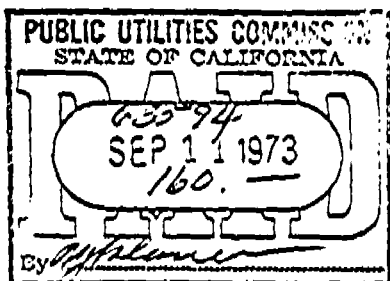
9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

10. Purchaser is authorized to execute promissory notes totaling \$80,000, for the purposes specified in the application.

11. The issuer of the notes authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

12. The authority granted by this order to issue notes will become effective when the issuer has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$160. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of AUGUST, 1973.



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

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Melvin Rodrigues
(an individual)
doing business as
RODRIGUES TRANSPORTATION SERVICE

Melvin Rodrigues, 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 between:

Willits, on the one hand, and, on the other hand Dos Rios and Covelo and intermediate points between Dos Rios and Covelo along unnumbered county road (Covelo Road), between said points.

Service is restricted to the movement of traffic interlined with the Northwestern Pacific Railroad, Pacific Motor Trucking Company and Pacific Motor Transport Company and interchanged with said carriers at Willits.

Whenever Melvin Rodrigues, doing business as Rodrigues Transportation Service engages other carriers for the transportation of property of Melvin Rodrigues and/or Marilyn Rodrigues or customers or suppliers of said persons, Melvin Rodrigues, doing business as Rodrigues Transportation Service, shall not pay such other carriers rates and charges less than the rates and charges published in Melvin Rodrigues, dba Rodrigues Transportation Service's tariffs on file with this Commission.

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. 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.
4. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
5. Articles of extraordinary value.
6. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)