

**ORIGINAL**

Decision No. 81858

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
AMERICAN TRANSPORT SYSTEM, INC., a )  
corporation, to sell, and JOHN F. )  
McGILL, an individual, to purchase, )  
a petroleum irregular-route, common )  
carrier certificate pursuant to )  
Sections 851-853 of the California )  
Public Utilities Code. )

Application No. 53979  
(Filed April 19, 1973;  
amended July 30, 1973)

O P I N I O N

This is an application in which American Transport System, Inc. (American), seeks authority to sell and transfer its certificate of public convenience and necessity to operate as a petroleum irregular route carrier to J. F. McGill Contracting Co., a California corporation (McGill).

A copy of the application was served on the California Trucking Association. There have been no protests to the application. The Commission makes the following findings and conclusion:

Findings of Fact

1. A public hearing is not necessary in this matter.
2. American holds a certificate of public convenience and necessity to operate as a petroleum irregular route carrier between all points and places within the State of California. The Commission has authorized the temporary suspension of operations under the certificate.
3. McGill is a newly formed California corporation, which has not engaged in any business activities. McGill's sole shareholder is John F. McGill, who has had experience with the transportation of bulk petroleum products.
4. The parties have entered into an agreement for American to sell and transfer the certificate to McGill for \$5,000.

5. John F. McGill has agreed to transfer to McGill the motor vehicle equipment set forth in Appendix A attached to the application as well as a sum of not less than \$10,000 for working capital.

6. McGill has the ability, including financial ability, to conduct operations under the certificate for which authority to transfer is herein sought.

7. The transfer of American's petroleum irregular route operating authority to McGill would not be adverse to the public interest.

8. To avoid confusion among the shipping public and assist the Commission in the performance of its regulatory functions, the authority authorized to be transferred herein should be restated in an in-lieu certificate of public convenience and necessity.

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

#### Conclusion of Law

The application should be granted as hereinafter set forth.

Purchaser 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 June 30, 1974, American Transport System, Inc., may sell and transfer the operative rights referred to in the application to J. F. McGill Contracting Co.

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 reissuc the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its 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 J. F. McGill Contracting Co., a corporation, authorizing it to operate as a petroleum irregular route carrier as defined in Section 214 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 by Decision No. 78125 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 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 12<sup>th</sup> day of SEPTEMBER, 1973.

William L. Sturgeon, Jr. President  
M. J. Brown  
John A. Brown  
Samuel D. Brown Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

/no

Appendix A

J. F. MCGILL CONTRACTING CO. Original Page 1  
(a corporation)

J. F. McGill Contracting Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, as follows:

Between all points and places within the  
State of California.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 81858, Application No. 53979.