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ORIGINAL

Decision No. 82119

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ASHWORTH TRANSFER, INC., a Utah
corporation, to acquire a certificate
of public convenience and necessity
and WESTATES TRANSPORTATION CO., a
California corporation, to transfer,
pursuant to Section 851, et seq., of
the California Public Utilities Code.

Application No. 54215
(Filed July 27, 1973)

O P I N I O N

Ashworth Transfer, Inc. (Ashworth), a Utah corporation, requests authority to acquire, and Westates Transportation Co. (Westates), a California corporation, requests authority to transfer the certificates of public convenience and necessity authorizing Westates to conduct operations as a highway common carrier and as a petroleum irregular route carrier. Applicant purchaser also requests authority to permanently adopt on five days' notice the rates presently published under the parties' lease agreement.

Westates is authorized to conduct operations as a highway common carrier for the transportation of specified commodities and as a petroleum irregular route carrier.

The certificates are set forth in Decision No. 61559 dated February 21, 1961 in Application No. 42995, as amended by Decision No. 72318 dated April 18, 1967 in Application No. 42995, and by Decision No. 49654 dated February 9, 1954 in Application No. 35053, as amended by Decision No. 51051 dated February 1, 1955 in Application No. 36632 and as amended by Decision No. 72318 dated April 18, 1967 in Application No. 36632.

Pending final approval by the Interstate Commerce Commission of the proposed transfer of the operating authority herein, this Commission by Decision No. 80253 dated July 18, 1972 in Application No. 53341 granted Ashworth authority to control Westates' highway common carrier and petroleum irregular route carrier certificates pursuant to the terms and conditions of a lease agreement executed January 12, 1972.

The Interstate Commerce Commission, having plenary jurisdiction under Section 5 of the Interstate Commerce Act, authorized Ashworth in Proceeding No. MC-F-11445 dated May 10, 1973 to acquire the operating authority held by Westates under ICC Certificate of Registration issued in Docket No. MC-68493 (Sub. No. 6) conditioned on the concurrent cancellation of the Certificate of Registration and transfer of the corresponding intrastate authority.

In exercising its exclusive and plenary jurisdiction, the ICC required Ashworth to file with it a copy of this Commission's order approving the transfer and if restated, a copy of the certificate as reissued.

A copy of the ICC's order approving the transfer is attached to this application as Exhibit A.

This Commission takes notice of a finding in the order of the Interstate Commerce Commission that the transfer as approved will not significantly affect the quality of the human environment.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that the application should be granted. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Westates Transportation Co. and the issuance of a certificate in appendix form to Ashworth Transfer, Inc. These certificates will be restated, but such restatement will not change or broaden the authority transferred.

Ashworth Transfer, 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 July 31, 1974, Westates Transportation Co. may sell and transfer the operative rights referred to in the application to Ashworth Transfer, Inc.

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 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. 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, certificates of public convenience and necessity are granted to Ashworth Transfer, 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 and over the routes set forth in Appendices A and B, and as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points set forth in Appendix C, which appendices are attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decisions Nos. 61559, 72318, 49654, and 51051 are 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.

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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.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 13th
day of NOVEMBER, 1973.

Vernon L. Stinson
President
William J. Smith
John W. Smith
John W. Smith
John W. Smith
Commissioners

Ashworth Transfer, 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:

- A. Property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water, wells, pipe lines, refineries, and cracking or casing head plants, equipment and material used in construction, and equipment used in farming, except the petroleum and petroleum products authorized to be transported in Appendices B and C of this same decision.
- B. Between all points and places on the following routes and all points within 50 miles laterally thereof:
 - 1. U. S. Highway 101 between the Oregon-California State Line and the City of Los Angeles;
 - 2. Interstate Highway 5 between the Oregon-California State Line and Sacramento, and between Wheeler Ridge and the International Border with Mexico;
 - 3. State Highway 86 between Indio and the International Border with Mexico;
 - 4. State Highway 99 between Red Bluff and Wheeler Ridge;
 - 5. State Highway 299 between Redding and Alturas;

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6. U. S. Highway 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;
7. State Highway 36 between its junction with State Highway 99, near Red Bluff, and its junction with U. S. Highway 395, at Johnstonville;
8. State Highway 20 between Marysville and its junction with Interstate Highway 80;
9. Interstate Highway 80 between San Francisco and the California-Nevada State Line;
10. U. S. Highway 50 between Sacramento and the California-Nevada State Line;
11. U. S. Highway 395 between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, near Hesperia;
12. U. S. Highway 66 (Interstate Highway 15), between Barstow and the City of Los Angeles;
13. Interstate Highway 40 (U.S. Highway 66), between Barstow and Needles, via Amboy and Essex;
14. Interstate Highway 10 between the City of Los Angeles and the California-Arizona State Line;
15. Interstate Highway 15 between Barstow and the California-Nevada State Line;
16. State Highway 127 between Baker and the California-Nevada State Line; and

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17. Interstate Highway 8 between the
City of San Diego and the California-
Arizona State Line.

In describing the operating authority herein granted,
duplications occur, but they shall not be construed
as granting more than one operating right.

(END OF APPENDIX A)

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Ashworth Transfer, 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:

- A. Petroleum products in bulk, except:
 - 1. Those requiring pressurized or insulated tanks.
- B. Between all points and places on the following routes and all points within 50 miles laterally thereof:
 - 1. U. S. Highway 101 between San Francisco and the City of Los Angeles;
 - 2. Interstate Highway 5 between Wheeler Ridge and the International Border with Mexico;
 - 3. State Highway 86 between Indio and the International Border with Mexico;
 - 4. State Highway 99 between Sacramento and Wheeler Ridge;
 - 5. Interstate Highway 80 between San Francisco and the California-Nevada State Line;
 - 6. U. S. Highway 50 between Sacramento and the California-Nevada State Line;
 - 7. U. S. Highway 395 between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, near Hesperia;

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8. U. S. Highway 66 (Interstate Highway 15), between Barstow and the City of Los Angeles;
9. Interstate Highway 40 (U.S. Highway 66), between Barstow and Needles, via Amboy and Essex;
10. Interstate Highway 10 between the City of Los Angeles and the California-Arizona State Line;
11. Interstate Highway 15 between Barstow and the California-Nevada State Line;
12. State Highway 127 between Baker and the California-Nevada State Line; and
13. Interstate Highway 8 between the City of San Diego and the California-Arizona State Line.

(END OF APPENDIX B)

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Ashworth Transfer, Inc., by the certificate of public convenience and necessity granted by 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, for the transportation of:

1. Petroleum products requiring pressurized or insulated tanks, between all points and places in the State of California.
2. Petroleum and petroleum products in tank-trucks or tank-trailers between all points and places in the State of California except the points and places described in Appendix B hereof, authorized to be served by it as a highway common carrier.

RESTRICTION: Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX C)

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