

ORIGINAL

Decision No. 82769

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of J. J. Willis Trucking Company, a Texas corporation, and Chesley Transportation Co., Inc., a California corporation, to transfer the certificate of public convenience and necessity of Chesley to Willis, and for interim relief for Willis to lease and temporarily operate Chesley authority.

Application No. 54661  
(Filed February 14, 1974)

O P I N I O N

Chesley Transportation Co., Inc. requests authority to sell and transfer, and J. J. Willis Trucking Company requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier. The transfer is subject to the exclusive and plenary jurisdiction of the Interstate Commerce Commission under Section 5 of the Interstate Commerce Act. In the interim applicant purchaser further requests authority to temporarily conduct operations pursuant to a lease agreement between the parties pending final authority to transfer. The agreements of sale and lease also involve corresponding interstate authority. By its order dated July 17, 1973, the Interstate Commerce Commission granted temporary authority to conduct operations pursuant to the lease agreement.

The certificate was granted by Decision No. 61560 in Application No. 42996 and authorizes 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;
- (b) Material and equipment used in the construction of roads, dams, and bridges; and

- (c) Material and equipment used in the construction of and destined for power and compressor plants

between any and all points on, and within 50 miles laterally of, the major highways throughout the State.

The agreed cash consideration is \$125,000. The agreed monthly rental is \$5,000, which will be applied to the purchase price upon transfer. As of February 28, 1973, applicant purchaser indicated a net worth in the amount of \$204,450.

It is alleged that applicant seller has experienced financial difficulties; that its creditors are demanding immediate payment which exerts constant pressure and creates an adverse cash flow; that the terminal manager recently resigned; that the president and manager of applicant seller has not had direct connection with its day-to-day operations; and that unless immediate action is taken the interest of the shipping public would be adversely affected.

After consideration the Commission finds that the proposed lease and subsequent transfer, under terms and conditions approved by Interstate Commerce Commission, of the operating authority herein considered would not be adverse to the public interest and concludes that they should be authorized. 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 Chesley Transportation Co., Inc., and the issuance of a certificate in appendix form to J. J. Willis Trucking Company, a Texas corporation, qualified to do business in California. The new certificate issued to J. J. Willis Trucking Company will not broaden or change the interstate or foreign commerce rights held by the carrier.

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

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

J. J. Willis Trucking Company 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. Upon final approval of the Interstate Commerce Commission, Chesley Transportation Co., Inc. may sell and transfer the operative rights referred to in the application to J. J. Willis Trucking Company.

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. 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. J. Willis Trucking Company, 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 Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 61560 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.

10. Pending final approval of the Interstate Commerce Commission, J. J. Willis Trucking Company may conduct operations, pursuant to the terms and conditions of the lease agreement as set forth in Exhibit F attached to the application, of the operating authority described in Appendix A, attached hereto.

11. As lessee of the operating rights J. J. Willis Trucking Company shall comply with the tariff filing requirements of the Commission's General Order No. 80-Series and the insurance requirements of General Order No. 100-Series.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 23rd day of APRIL, 1974.

Vernon L. L. L.  
President  
William L. L.  
J. L. L.  
J. L. L.  
J. L. L.  
Commissioners

J. J. Willis Trucking Company, 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;
- (B) Material and equipment used in the construction of roads, dams and bridges;
- (C) Material and equipment used in the construction of and destined for power and compressor plants;

Between any and all points on and within 50 miles laterally of the following named highways:

- (1) U.S. Highway 101 between the Oregon-California State Line and the City of Los Angeles; State Highway 82 between San Francisco and San Jose; and State Highway 1 between Montalvo and Capistrano Beach;
- (2) Interstate Highway 5 between the Oregon-California State Line and Sacramento, and between Wheeler Ridge and the International Border with Mexico; State Highway 99 between Sacramento and Wheeler Ridge; State Highway 65 between Yuba City and its intersection with Interstate Highway 80 near Roseville; Interstate Highway 80 between its intersection with State Highway 65 and Sacramento; and State Highway 86 between Indio and the International Border with Mexico;
- (3) State Highway 299 between Redding and Alturas;
- (4) U.S. Highway 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;

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

Duplications which occur in describing the operating rights herein shall not be construed as granting more than one certificated right to transport the same commodities between the same points.

(END OF APPENDIX A)

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