

ORIGINAL

Decision No. 82799

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SEA-AIR CONTAINER TRANSPORT, INC.,
a California corporation, to transfer,
and TRANSPORT EQUITY CORPORATION, a
California corporation, doing business
as CERTIFIED TRANSPORT, to acquire a
Certificate of Public Convenience and
Necessity to operate as a Highway
Common Carrier.

Application No. 54657
(Filed February 13, 1974)

O P I N I O N

Sea-Air Container Transport, Inc. (Sea-Air)^{1/} has authority
as a highway common carrier to transport general commodities:

- (a) Between all points and places in Los Angeles
Territory. ^{2/}
- (b) Between Los Angeles, on the one hand, and
Riverside and San Diego, on the other.

1/ The original authority involved herein was a highway common carrier certificate granted to Wilbur C. Winegar and Wilbur C. Winegar as administrator of the estate of Myrtle P. Winegar, deceased, dba C. M. Winegar Trucking Company, Decision No. 56440 dated April 1, 1958 in Application No. 36490.

By Decision No. 72828 dated August 1, 1967 in Application No. 49483 the certificate was transferred to Lyles Trucking Company, Incorporated.

By Decision No. 74082 dated May 7, 1968, as the result of an order in Case No. 5432, the Commission amended the foregoing authority to delete "Trailer coaches and campers including integral parts and contents when the contents are within the trailer coach or camper."

By Decision No. 76757 dated February 10, 1970 in Application No. 49483 the name of Lyles Trucking Company, Incorporated was changed to Sea-Air Container Transport, Inc.

2/ The description of the territory is set forth in the appendix.

It is not authorized to transport:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
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. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. 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.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

The authority has been registered with the Interstate Commerce Commission. By this application Sea-Air, seller, seeks authority to transfer to Transport Equity Corporation, a California corporation, doing business as Certified Transport, buyer, that portion of seller's highway common carrier operating authority which

permits the transportation of general commodities, with specified exceptions, between points and places in the described Los Angeles Territory including the interstate operations associated therewith. The remaining authority is to be transferred to another party by a separate application. The agreed cash consideration is \$30,000 of which sum \$15,000 is for the above intrastate rights and \$15,000 is for the certificate of registration with the Interstate Commerce Commission.

The buyer is the successor to a partnership composed of H. B. and H. E. Gislason, dba Certified Transport which was formed in 1965 and operated as a California permit carrier until Transport was incorporated in August, 1973.

The stated reason for the transfer is that the buyer has experienced growing and continued demands from the shipping public and its shipping customers, and the instant application, if granted, will give it the authority to fill the needs and demands of the shipping public and its shipping customers, and continue the service performed by seller.

The buyer alleges that its officers, directors, and employees are well qualified to participate in the management of the corporate activities with respect to intrastate and interstate motor truck transportation operating for the benefit of the public, that H. B. Gislason, president and sole director and shareholder, has been engaged in the transportation field as both an owner of a truck company and supervisor of a transportation and warehouse company for over 12 years; that Don Pollock, its vice president and secretary, has been engaged in the transportation business for over 10 years and is familiar with motor carrier management and sales.

The parties allege there will be no adverse effect upon the financial condition of the motor carrier business and there will be no change in rates and other charges now assessed to the public.

It is alleged that the seller is desirous of selling its highway common carrier certificate as it does not wish to continue as a highway common carrier.

The seller is a participating carrier in tariffs of the Western Motor Tariff Bureau, Inc., agent, naming the rates and rules governing the common carrier operations subject of the transfer herein. The buyer desires to continue the services previously rendered pursuant to the tariffs of seller, with respect to that portion of the motor carrier operating rights being sold, and requests that it be permitted to amend or re-issue the tariffs that seller has been participating in; and requests that this Commission allow changes in tariffs necessitated by the requested transfer to be made after five days notice.

As of December 31, 1973 buyer indicated a net worth of \$67,612.

Findings

1. Transport Equity Corporation should be authorized to purchase and Sea-Air Container Transport, Inc., should be authorized to sell to Transport Equity Corporation that portion of the Sea-Air highway common carrier certificate of public convenience and necessity herein referred to.

2. The transfer of such portion of Sea-Air's authority will not be adverse to the public interest.

3. Transport Equity Corporation has the financial resources with which to conduct the transferred authority and will have available facilities with which to conduct the operations now conducted by Sea-Air Container Transport, Inc.

4. Sea-Air Container Transport, Inc. and Transport Equity Corporation should be authorized to execute the proposed transfer agreement, Exhibit B of the application.

5. Transport Equity Corporation should be authorized to adopt and place in effect all of Sea-Air's applicable tariffs.

6. An in-lieu certificate of public convenience and necessity should be issued to seller.

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

8. A public hearing is not necessary.

Conclusion

The Commission concludes that the application should be granted.

The Transport Equity 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.

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

The order which follows will provide for, in the event the transfer is consummated, the issuance of an in-lieu certificate of public convenience and necessity, in appendix form, to Sea-Air Container Transport, Inc., as attached hereto as Appendix B; the revocation of Decisions Nos. 56440, 72828, and 76757; and the

revocation of that portion of Decision No. 74082 which concerns Lyles Trucking Company, Incorporated. The order will also authorize the issuance of a certificate of public convenience and necessity in appendix form to Transport Equity Corporation dba Certified Transport, relative to transportation in the Los Angeles Territory, as attached hereto as Appendix A. The total scope of both certificates shall not exceed in scope the authority of Sea-Air Container Transport, Inc. as it existed prior to the transfer herein authorized.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1974 Sea-Air Container Transport, Inc. may sell and transfer and Transport Equity Corporation, a corporation, may purchase and acquire the Los Angeles Territory portion of seller's operative rights.
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. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein authorized to show that they have adopted or established as their own the rates and rules. 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 tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to Transport Equity Corporation, 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. The operative rights granted by Decisions Nos. 56440, 72828, 76757, and that portion of Decision No. 74082 which concerns Lyles Trucking Company, Incorporated are cancelled on the effective date of said tariff filings, and an in-lieu certificate of public convenience and necessity is granted to Sea-Air Container Transport, Inc., 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 B attached hereto and made a part hereof.

5. Each applicant shall maintain 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 each 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.

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

7. Applicants are placed on notice that if they accept the certificates they will be required, among other things, to comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

8. The parties may execute the purchase and sale agreement in a form substantially the same as Exhibit B of the application.

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

Dated at San Francisco, California,
this 30th day of APRIL, 1974.

William Lyons Jr. President
[Signature]
[Signature]
[Signature] Commissioners

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

Transport Equity Corporation, 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 all points and places in the Los Angeles Territory as described in Note A.

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.
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.

Issued by California Public Utilities Commission.

Decision No. 82799, Application No. 54557.

TRANSPORT EQUITY CORPORATION
(a California corporation)
doing business as
CERTIFIED TRANSPORT

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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

NOTE A

LOS ANGELES TERRITORY

The Los Angeles Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the City of San Fernando); thence southeasterly along State Highway 118 to and including the City of Pasadena; thence easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street, south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boule-

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vard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

(END OF APPENDIX A)

Sea-Air Container Transport, 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 general commodities between Los Angeles on the one hand, and Riverside and San Diego on the other hand.

This authority does not include the right to serve intermediate points.

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.
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.

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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. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
8. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

(END OF APPENDIX B)