

ORIGINALDecision No. 82952

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SYSTEM 99, a California corporation, and TRANS WESTERN EXPRESS, INC. (formerly Bend-Portland Truck Service, Inc.), an Oregon corporation, to transfer the certificate of public convenience and necessity of TRANS WESTERN EXPRESS, INC. to SYSTEM 99.

Application No. 54789
(Filed April 3, 1974)

O P I N I O N

Trans Western Express, Inc. requests authority to transfer, and System 99 requests authority to acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 54744 dated March 26, 1957 in Application No. 38813 and authorizes the transportation of general commodities between Alturas and the California-Oregon border and intermediate points via U. S. Highway 395.

The transfer is part of a stock purchase agreement that is subject to the exclusive jurisdiction of the Interstate Commerce Commission pursuant to Section 5 of the Interstate Commerce Act. A hearing has been held before the federal commission and the parties are now awaiting a final decision.

It is alleged that the parties desire to transfer the interstate and intrastate rights at the same time and therefore request that the transfer of the intrastate rights by the Commission coincide with the final order of the Interstate Commerce Commission.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. 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 Trans Western Express, Inc. and the issuance of a certificate in appendix form to System 99.

System 99 holds several certificates to operate as a highway common carrier and the order below will require the carrier to file a proposed in-lieu certificate, restating and consolidating all of its certificates into a single certificate. The failure of System 99 to comply with such requirement within the provided time period may result in a further order of the Commission, which would suspend the authority granted herein.

System 99 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 approval of the Interstate Commerce Commission and effective therewith Trans Western Express, Inc. may transfer the operative rights referred to in the application to System 99.
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 System 99, 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 route set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 54744 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. Within one hundred eighty days after the date of the transfer, System 99 shall submit to this Commission a proposed in-lieu certificate of public convenience and necessity describing and consolidating all of its highway common carrier operating authorities as granted by this Commission. Such proposed certificate shall reflect the current designations of highways and roads as used to describe its authority and shall not, unless submitted with a proper application, exceed in any way the scope of the authority authorized by the Commission in the

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decisions it is intended to replace. To the extent possible, System 99 shall, in submitting the proposed in-lieu certificate, eliminate any overlapping and duplicate authorities that may now exist.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th day of JUNE, 1974.

Vernon L. Sturgeon
President
William J. Lyons-Jr.
W. J. Lyons
W. J. Lyons
W. J. Lyons
Commissioners

System 99, 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 Alturas and the California-Oregon border and intermediate points via U.S. Highway 395.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

1. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 82952, Application No. 54739.