

ORIGINAL

Decision No. 83126

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of DRISKELL TRUCKING, INC., a  
California corporation, for  
authority to acquire certain  
Certificates of Public Convenience  
and Necessity and for issuance  
of an In Lieu Certificate of  
Public Convenience and Necessity  
therefor, and NORTH AMERICAN VAN  
LINES, INC., an Indiana corpora-  
tion, to transfer pursuant to  
Section 851, et seq., of the  
California Public Utilities Code.

Application No. 54226  
(Filed August 2, 1973)

INTERIM OPINION

North American Van Lines, Inc. (North American) seeks authority to transfer its highway common carrier certificates and its express corporation certificates of public convenience and necessity to Driskell Trucking, Inc. (Driskell).

North American, in addition to its broad interstate operating authority, is engaged in operations as a highway common carrier in the transportation of uncrated new furniture and parts thereof and certain related appliances and furnishings generally between San Ysidro on the south and Santa Rosa, Napa, and North Sacramento on the north, and intermediate points. Said operations are conducted pursuant to authority granted by Commission Decision No. 33814, as amended by Decision No. 36933; Decision No. 34360, as amended by Decision No. 34440; and Decision No. 35453, as amended by Decisions Nos. 36933, 43440, and 67195. It also operates as an

express corporation pursuant to Decisions Nos. 36824 and 67195, the scope of which coincides with its highway common carrier authority. All of these were issued to various persons, firms, and/or associations, and acquired by North American pursuant to Decision No. 64768 dated January 8, 1963 in Application No. 44827, and as extended by Decision No. 67195 dated May 12, 1964 in Application No. 46047.

North American is also engaged in the transportation of used household effects between points in the State of California pursuant to permits issued by this Commission.

Driskell is a California corporation currently operating as a common carrier pursuant to certificates issued by both the Interstate Commerce Commission and the California Public Utilities Commission. It also possesses permits as a radial highway common carrier, a highway contract carrier, and a household goods carrier under File No. T-69215. The highway common carrier certificate issued under Decision No. 57078 dated July 29, 1958 and transferred to Driskell by Decision No. 61415 dated January 24, 1961 is currently the subject of sale and the application to transfer is presently pending before this Commission in Application No. 54227 filed August 2, 1973. It is contemplated that consummation of the transfer herein will be concurrent with the consummation in that transaction.

Driskell proposes to acquire the certificates from North American for cash, payable \$1,500 in cash into escrow at the time of entering into the agreement and the balance of \$4,750 upon approval of the application; the total of \$6,250 to be paid over to North American by the escrow agent upon consummation. Driskell's financial statement as of December 31, 1972, submitted as Exhibit B to the application, indicated total assets of \$139,979 and liabilities of \$68,458 with a net worth of \$71,521.

Driskell presently publishes rates and rules in Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111 (Cal. P.U.C. No. 15). Driskell also seeks to publish the rates, rules, and charges for the authority to be acquired in Western Motor Tariff Bureau publications.

It is alleged that such authorization would avoid certain technical problems. These relate primarily to the rules and regulations in the tariffs and not generally to the substance of charges or rates.

Driskell is hereby placed on notice that in the event the transfer authorized is completed, the in-lieu certificate required to be filed by it shall be filed within the prescribed 180 days or the Commission may consider suspending the operating authority authorized herein.

After consideration the Commission finds and concludes that:

1. The proposed transaction would not be adverse to the public interest.
2. Driskell should be authorized to publish rates, rules, and charges governing the authorities to be transferred to it in Western Motor Tariff Bureau's Tariff publications.
3. Increases in the rates and charges, which may occur as a result of their publication in the tariffs to which Driskell is now a party, are justified.
4. With reasonable certainty the project involved in this proceeding will not have a significant effect on the environment.
5. In order to assist the Commission in its regulatory function, and the public as consumer, the authority to be transferred to Driskell should be restated in the form of new certificates, as provided by the order herein.

6. A public hearing is not necessary.

The Commission concludes that the application should be granted to the extent set forth in the order which follows.

Driskell Trucking, 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.

INTERIM ORDER

IT IS ORDERED that:

1. On or before December 31, 1974, North American Van Lines, Inc. may sell and transfer the operative rights referred to in the application to Driskell Trucking, Inc., which certificates will authorize it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code and as an express corporation as defined in Section 219 of the Code.

2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificates and a true copy of the bill of sale or other instrument of transfer.

3. Purchaser is authorized to publish the applicable rates and charges with the Western Motor Tariff Bureau. 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. Within one hundred eighty days after the date of transfer, Driskell Trucking, Inc. shall submit to this Commission proposed in-lieu certificates of public convenience and necessity describing and consolidating its highway common carrier and express corporation operating authorities as granted by this Commission. Such proposed certificates shall reflect the current designations of highways and roads used to describe its authorities and shall not, unless submitted with a proper application exceed in any way the scope of the authorities authorized by the Commission in the decisions they are intended to replace. To the extent possible, Driskell Trucking, Inc. shall, in submitting the proposed in-lieu certificates, eliminate any overlapping and duplicate authorities that may now exist.

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.

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 9th day of JULY, 1974.

Verne L. Sturgis  
President  
William J. ...  
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...  
Commissioners