

Decision No. 83724**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of  
CALIFORNIA RAPID TRANSFER, INC.,  
for authority under Section 851 of  
the Public Utilities Code to trans-  
fer operating rights to JOHN CALDWELL,  
doing business as CALDWELL'S EXPRESS  
TRUCKING CO.

Application No. 54981  
(Filed June 21, 1974)

O P I N I O N

California Rapid Transfer, Inc. (seller), a California corporation, seeks authority to transfer its highway common carrier operating rights to John Caldwell (purchaser), an individual doing business as Caldwell's Express Trucking Co. The operative rights have been registered with the Interstate Commerce Commission in Docket No. MC-121227, Sub No. 1.

Notice of the application was published on June 24, 1974 in the Commission's Daily Calendar. No protests have been received.

The operative rights sought to be transferred had their origin in Decision No. 22090 (34 CPUC 323-326) which granted a prescriptive operating right between the city of San Diego and the city of Coronado. This prescriptive right was transferred to seller by Decision No. 67209 dated May 14, 1964 in Application No. 46313 and amended by Decision No. 79819 dated March 21, 1972.

In addition to the highway common carrier right described above, seller also holds and operates under a household goods carriers permit. Seller states that it desires to devote its full time and activity to the household goods operation and is therefore desirous of transferring its highway common carrier authority.

The purchase price for the transfer is stated to be \$2,000 payable in cash. There exists no written agreement embracing this transaction.

Purchaser is an individual who is presently not engaged in the transportation of property for compensation. It is stated that, upon approval of the transfer, purchaser will undertake to acquire sufficient motor-vehicle equipment, tangible properties, and facilities, as well as personnel, to serve the shipping public properly.

Purchaser's personal balance sheet dated May 17, 1974 shows that he has a 50 percent interest in the J & J Sandwich and Coffee Shop in National City. His total net worth is stated to be \$38,729. The income statement shows a net cash annual income of \$10,836.

It is also stated that, due to the limited scope of the operating authority, it is not anticipated that the required initial investment will be beyond the purchaser's financial capabilities.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it 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 operating authority presently held by California Rapid Transfer, Inc. and the issuance of a certificate in appendix form to John Caldwell.

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

John Caldwell 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 December 31, 1974, California Rapid Transfer, Inc. may sell and transfer the operative rights referred to in the application to John Caldwell.

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 he has adopted or established, as his 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, a certificate of public convenience and necessity is granted to John Caldwell, an individual doing business as Caldwell's Express Trucking Co., authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the city of Coronado and the city of San Diego, as set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 67209, as amended by Decision No. 79819, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Purchaser shall maintain his 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 his 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, he shall make the appropriate tariff filings as required by the General Order.

9. The prescriptive operating right transferred is being stated in certificate form, but such statement will not change or broaden the authority transferred.

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

Dated at San Francisco, California, this 19<sup>th</sup> day of NOVEMBER, 1974.

President  
William J. Lyons Jr.  
Commissioners  
Robert E. McLeod

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

JOHN CALDWELL  
(an individual)  
doing business as  
Caldwell's Express Trucking Co.

John Caldwell, 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 the City of Coronado and the City of San Diego, except that pursuant to the authority herein granted, carrier shall not transport any shipments of trailer coaches and campers.

RESTRICTION:

Whenever John Caldwell engages other carriers for the transportation of property of J & J Sandwich and Coffee Shop or customers or suppliers of said entity, John Caldwell shall not pay such other carriers rates and charges less than the rates and charges published in John Caldwell's tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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