

Decision No. 84623**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 C. E. FORTIER and C. J. FORTIER,)
 doing business as REEDLEY-SELMA-)
 KINGSBURG TRUCK LINES to sell and)
 transfer all of Reedley-Selma-)
 Kingsburg Truck Lines assets to)
 COMMERCIAL TRANSFER, INC., a)
 California corporation.)

Application No. 55303
 (Filed November 7, 1974)

O P I N I O N

C. E. Fortier and C. J. Fortier, doing business as Reedley-Selma-Kingsburg Truck Lines, request authority to sell and transfer, and Commercial Transfer, Inc. requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was acquired by Decision No. 31838 dated March 20, 1939 in Application No. 22609 and authorizes the transportation of general commodities between Fresno and Kingsburg, Fresno and Reedley, and intermediate points.

Applicant purchaser is presently conducting operations as a cement carrier, radial highway common carrier, dump truck carrier, and a petroleum contract carrier; and alleges it is familiar with the transportation industry and stands ready, willing, and able to conduct and perpetuate the service heretofore provided to the public by applicant seller. By Decision No. 83719 dated November 13, 1974 in Application No. 55127, Commercial Transfer, Inc. was authorized to acquire the highway common carrier authority of Audrey Melikian, but this transaction has not yet been consummated.

As of September 30, 1974 applicant purchaser indicated a net worth in the amount of \$237,980. The purchase price is \$2,000.

The rates, rules, and charges applicable to the authority herein considered were formerly published in Western Motor Tariff Bureau, Inc.'s tariffs, but the participation of the Fortiers was canceled on November 30, 1974. As a condition of the authorization herein granted, Commercial Transfer, Inc. shall be required to reinstate and update the tariff filings.

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 C. E. Fortier and C. J. Fortier and the issuance of a certificate in appendix form to Commercial Transfer, Inc.

Commercial Transfer, 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.

O R D E R

IT IS ORDERED that:

1. On or before March 3, 1975, C. E. Fortier and C. J. Fortier may sell and transfer the operative rights referred to in the application to Commercial Transfer, Inc.
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. Commercial Transfer, Inc. shall reinstate the tariff filings with Western Motor Tariff Bureau, Inc. The tariff filings shall be brought up to date in compliance with all applicable Commission minimum rate orders. Purchaser shall then amend or reissue the tariffs 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 Commercial Transfer, 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 A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity acquired by Decision No. 31838 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. 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.

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.

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

Dated at San Francisco, California, this 28th
day of JANUARY, 1975.

James L. Stanger
President
William J. Quinn Jr.
Leonard Ross
Commissioners

Commercial Transfer, 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: Fresno and Kingsburg, via Malaga, Fowler and Selma, and intermediate points, and between Fresno and Reedley, via Del Rey and Parlier, and intermediate points.

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

1. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.
2. 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. 84023, Application No. 55303.