

Decision No. ~~84198~~

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DAIGH & STEWART TRUCK COMPANY, a  
corporation, to sell and transfer and  
JACK BURTCH COMPANY, A CORPORATION  
to purchase and acquire a Certificate  
of Public Convenience and Necessity  
to operate as a Petroleum Irregular  
Route Carrier under the provisions of  
Section 851 of the Public Utilities  
Code of the State of California.

Application No. 55417  
(Filed December 30, 1974)

O P I N I O N

Daigh & Stewart Truck Company requests authority to sell and transfer, and Jack Burtch Company requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier.

The certificate was granted by Decision No. 45726 in Application No. 32308 dated May 22, 1951 and authorizes the transportation of petroleum and petroleum products in tank trucks and trailers over irregular routes between all points and places within the State.

The cash consideration for the certificate is \$5,000. As of September 1, 1974 the applicant purchaser indicated a net worth in the amount of \$76,691.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. 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 Daigh & Stewart Truck Company and the issuance of a certificate in appendix form to Jack Burtch Company.

Inasmuch as the petroleum irregular route certificate authorizes statewide operations, petroleum contract carrier operations may not be conducted by the carrier. Therefore, the order will provide for the suspension of the petroleum contract carrier permit held by John A. Burtch (stockholder and officer of Jack Burtch Company) and

subsequent revocation thereof, unless an application to transfer that permit is timely filed.

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

Jack Burtch Company 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 August 29, 1975, Daigh & Stewart Truck Company may sell and transfer the operative rights referred to in the application to Jack Burtch Company, a California corporation.
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. 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 Jack Burtch Company, a corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, as set forth in Appendix A of this decision.

5. The petroleum contract carrier permit held by John A. Burtch as an individual shall stand suspended effective concurrently with the effective date of the tariff filings and the permit shall be revoked 90 days thereafter unless prior thereto, John A. Burtch files an application to transfer the permit.

6. The certificate of public convenience and necessity granted by Decision No. 45726 in Application No. 32308 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 18<sup>th</sup> day of MARCH, 1975.

Vernon L. Lofgren  
President  
William J. Lyons  
Donald Ross  
Commissioners

Jack Burtch Company, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

## RESTRICTIONS:

Transportation of waste material under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

Whenever carrier engages other carriers for the transportation of property of John Burtch Company or customers or suppliers of said company, carrier shall not pay such carriers less than 100% of the published tariff rates and charges for the transportation actually performed by such other carriers.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 84198, Application No. 55417.