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Decision No. **84235**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THOMAS H. MARROW TRUCKING CO., a
corporation, to transfer to, and of
IML FREIGHT, INC., a corporation,
to acquire, a certificate of public
convenience and necessity to
operate as a highway common carrier.

Application No. 55393
(Filed December 16, 1974)

O P I N I O N

Thomas H. Marrow Trucking Co. (Marrow), a corporation, is a highway common carrier as defined in Section 213 of the California Public Utilities Code. Marrow was issued a certificate of public convenience and necessity in Decision No. 72138 dated March 14, 1967 in Application No. 48679. This certificate covered operations in the general area in and between Los Angeles, San Diego, and the Imperial Valley. This certificate was registered with the Interstate Commerce Commission which issued a Certificate of Registration to Marrow in Docket No. MC-120516 (Sub-No. 2) by order served August 3, 1967. The Certificate of Registration was converted into an Interstate Commerce Commission certificate of public convenience and necessity by order served September 29, 1972 in Docket No. 120516 (Sub-No. 3).

IML Freight, Inc. (IML) holds an in lieu certificate of public convenience and necessity, pursuant to Decisions Nos. 83371 and 83512 dated August 27, 1974 and October 1, 1974, respectively. Under this certificate, it operates as a highway common carrier throughout much of northern California and in the Los Angeles Basin Territory. IML also holds extensive operating authority from the Interstate Commerce Commission as a regular route general

commodity carrier under certificates of public convenience and necessity in Docket No. 33641 and subs thereunder.

On August 7, 1970, applicants entered into an agreement whereunder IML was to purchase all of the issued and outstanding stock of Marrow. Applications for approval of this transaction were filed with the Interstate Commerce Commission under Section 5 of the Interstate Commerce Act and with this Commission under Sections 851 and 852 of the Public Utilities Code. The Interstate Commerce Commission by orders served August 23, 1971 and February 9, 1972, respectively, in Dockets Nos. MC-F-10925 and MC-120516 (Sub-No. 3) approved the transfer and the conversion of Marrow's Certificate of Registration into a certificate of public convenience and necessity. This Commission dismissed the application filed before it by Decision No. 77674 dated September 1, 1970 for the reason that the proposed transactions were found not subject to the jurisdiction of this Commission.

By this application, IML requests authority to acquire the intrastate portion of the operating rights formerly encompassed in Marrow's Certificate of Registration MC-120516 (Sub-No. 2). The transfer will be accomplished by dissolving Marrow and distributing all of its assets, including the operating rights which are the subject of this application, to IML. Inasmuch as IML already owns all of the issued and outstanding stock of Marrow, pursuant to approval of the Interstate Commerce Commission, no additional consideration will be paid for these operating rights.

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 certificates presently held by Thomas H. Marrow Trucking Co. and IML, and the issuance of a certificate in appendix form to IML Freight, Inc. The new certificate issued to IML Freight, Inc. will not broaden or change the interstate or foreign commerce rights held by the carrier.

IML Freight, 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 July 1, 1975, Thomas H. Marrow Trucking Co. may transfer the operative rights referred to in the application to IML Freight, Inc.
2. Within thirty days after the transfer the transferee 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. Transferee 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 transferee 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 transferor 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 DVL Freight, Inc., a corporation, 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 of this decision.

6. The certificate of public convenience and necessity granted by Decisions Nos. 72138 and 83371 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Transferee 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. Transferee 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. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferee 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 25th day of MARCH, 1975.

James L. Johnson
President
William J. Johnson
Leonard Bon
Commissioners

IML FREIGHT, 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 as follows:

1. Between all points and places located in the following territories:
 - a. The San Francisco Territory as described in Note A.
 - b. The Los Angeles Basin Territory as described in Note B.
 - c. The San Diego-Escondido Territory as described in Note C.
2. From, to and between all points and places on the following named highways also serving the named off-route points:
 - a. State Highway 120 between its junction with Interstate Highway 5 (Mossdale Wye) and its junction with State Highway 99 east of Manteca; State Highway 99 between its junction with State Highway 120 and Tulare, inclusive, serving the off-route points of Visalia and Hanford.
 - b. Interstate Highway 580 between the San Francisco Territory and its junction with Interstate Highway 205 near the Alameda-San Joaquin County Line; Interstate Highway 205 between its junction with Interstate Highway 580 and its junction with Interstate Highway 5 northeast of Banta; Interstate Highway 5 between its junction with Interstate Highway 205 and Stockton inclusive, serving the off-route point of Lathrop.
 - c. State Highway 152 between Watsonville and its junction with State Highway 99 near Califa, inclusive.
 - d. State Highway 17 between the San Francisco Territory and Santa Cruz, inclusive, serving the off-route points of Los Gatos and Saratoga.

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- e. Interstate Highway 680 between the San Francisco Territory and its junction with State Highway 84 at Scotts Corner; State Highway 84 between its junction with Interstate Highway 680 and Livermore, inclusive.
- f. U.S. Highway 101 between its junction with Atherton Avenue north of Novato and the San Francisco Territory, inclusive; and between the San Francisco Territory and Soledad, inclusive.
- g. Atherton Avenue between its junction with U.S. Highway 101 north of Novato and its junction with State Highway 37 east of Novato; State Highway 37 between its junction with Atherton Avenue and its junction with Interstate Highway 80 northeast of Vallejo.
- h. State Highway 121 between its junction with State Highway 37 near Sears Point and Napa, inclusive.
- i. State Highway 29 between Napa and Vallejo, inclusive, serving the off-route point of Napa State Hospital.
- j. State Highway 17 between its junction with U.S. Highway 101 near San Rafael and Richmond, inclusive, serving the off-route point of San Quentin.
- k. Any and all streets and highways directly connecting the points of Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo, Fairfax, Sausalito, Belvedere, Tiburon, McNears Beach, China Camp and Santa Venetia.
- l. State Highway 9 between Boulder Creek and Santa Cruz, inclusive, serving the off-route point of Mt. Herman, and as an alternate route Graham Hill Road between Felton and Santa Cruz, inclusive.
- m. State Highway 1 between Santa Cruz and its junction with the Carmel Valley Road near Carmel, inclusive, with departures therefrom as are necessary to serve Capitola, Sea Cliff State Beach, Rio Del Mar, Pacific Grove and Carmel.
- n. County Road G-16 (Carmel Valley Road) between its junction with State Highway 1 near Carmel and Carmel Valley Village, inclusive; County Road

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- G-20 (Laureles Grade) between its intersection with State Highway 68 and its intersection with County Road G-16, inclusive.
- o. State Highway 68 between Monterey and Salinas, inclusive, serving Fort Ord and Spreckels as off-route points.
 - p. County Road G-17 (Reservation Road) between Marina and its intersection with State Highway 68, inclusive.
 - q. Unnumbered highways (Nashua-Cooper Road and Blanco Road) between the intersection with State Highway 1, approximately 2 miles south of Castroville and the intersection with State Highway 68 approximately one mile south of Salinas.
 - r. State Highway 183 between Castroville and Salinas, inclusive.
 - s. County Road G-12 (Hall Road) between Watsonville and its intersection with County Road G-11 (San Juan Road); County Road G-11 between its junction with County Road G-12 and its junction with U.S. Highway 101, near the San Benito-Monterey County Line.
 - t. State Highway 129 between Watsonville and its junction with U.S. Highway 101, inclusive.
 - u. Unnumbered highway (Carpenteria Road) between its junction with State Highway 129 and its junction with County Road G-11, via Aromas.
 - v. State Highway 156 between its junction with U.S. Highway 101 and Hollister, inclusive.
 - w. State Highway 25 between its junction with U.S. Highway 101 and Hollister, inclusive.
3. From, to and between all points and places on or within 3 miles laterally of the following named highways, also serving the named off-route points:
- a. State Highway 99 between Sacramento and Stockton, inclusive, serving the off-route point of the Campbell Soup Company Plant on Franklin Boulevard approximately one mile from Sacramento.

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- b. U.S. Highway 50 between Sacramento and Clarksville, inclusive.
- c. State Highway 16 between Madison and Woodland, inclusive, and between Sacramento and Michigan Bar, inclusive.
- d. Interstate Highway 5 between Zamora and Sacramento, inclusive.
- e. State Highway 113 between Robbins and Davis, inclusive.
- f. State Highway 70 between Rio Oso and East Nicolaus; unnumbered highway between East Nicolaus and Nicolaus; and unnumbered highway (Garden Highway) between Nicolaus and Sacramento, inclusive.
- g. State Highway 128 between Winters and Davis, inclusive.
- h. State Highway 65 between Lincoln and Roseville, inclusive.
- i. Interstate Highway 80 between the San Francisco Territory and Loomis, inclusive, serving the off-route points of Martinez and Mare Island Naval Shipyard.
- j. State Highway 160 between its junction with State Highway 4 near Antioch and Sacramento, inclusive.
- k. State Highway 12 between its junction with Interstate Highway 80 near Fairfield and its junction with State Highway 99 near Lodi, inclusive.
- l. State Highway 4 between its junction with Interstate Highway 80 near Pinole and Stockton, inclusive.
- m. State Highway 24 between the San Francisco Territory and Walnut Creek, inclusive.
- n. Unnumbered highway (Moraga Road), between Lafayette and Moraga, inclusive.

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- (b) Interstate Highway 15 (U.S. Highway 395), serving all intermediate points and all off-route points on and along and within 3 miles laterally of said highway between Escondido and San Diego and the off-route point of Poway.
7. Between said San Diego-Escondido Territory, on the one hand, and, on the other hand, El Centro and points within 30 miles of El Centro, over Interstate Highway 8 serving all intermediate points on and along said highway.
8. Between all points in the Los Angeles Basin Territory, on the one hand, and, on the other hand, El Centro and points within 30 miles of El Centro, via State Highway 60 and Interstate Highway 10 between the eastern boundary of the Los Angeles Basin Territory and the junction of said highways at or near Beaumont, thence via Interstate Highway 10 to its junction with State Highways 86 or 111 and via either of said highways, and the northern boundary of the El Centro area, consisting of El Centro and points within 30 miles thereof. (No service is authorized at intermediate points.)

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

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.

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3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Logs.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Ammunition or explosives to or from the Naval Ammunition Depot at Fallbrook exceeding 10,000 pounds.

NOTE A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W.

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Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

NOTE B

LOS ANGELES BASIN TERRITORY

Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the

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City of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to The Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County Boundary Line; westerly along said boundary line to the Orange County-San Diego County Boundary Line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base.

NOTE C

SAN DIEGO-ESCONDIDO TERRITORY

Beginning at Oceanside, easterly on State Highway 76 and County Road S-14 to Vista; thence southeasterly on State Highway 78 to Escondido; thence southerly on Interstate Highway 15 and county roads via Poway to Miramar; thence following an imaginary line southeasterly; to Lakeside, southerly to Bostonia, southeasterly to Jamul; and due south to the International Boundary line; thence westerly to the Pacific Ocean including North Island and Coronado to the point of beginning at Oceanside.

(END OF APPENDIX A)

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