

Decision No. 84487**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applica-)
 of Airport Express, Incorpor-)
 ated, a California corporation)
 to authority to acquire a Certi-)
 ficate of Public Convenience and)
 Necessity, and of L & V Truck-)
 ing, Inc., a California corpora-)
 tion, to transfer the same pur-)
 suant to Sections 851-854 of the)
 California Public Utilities)
 Code.)

Application No. 55638
 (Filed April 17, 1975)

OPINION

L & V Trucking, Inc., a California corporation, (seller) requests authority to sell and transfer and Airport Express, Incorporated, a California corporation (purchaser) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier.

Said certificate was granted by Decision No. 60182, dated May 24, 1960, in Application No. 41837, and transferred to seller by Decision No. 63842, dated June 26, 1962 in Application No. 44524. The certificate was registered with the Interstate Commerce Commission in Docket No. MC 121392. The certificate authorizes the transportation of general commodities, with the usual exceptions between points within three air miles of U. S. Highways 101 and 101 By-Pass, between San Francisco and San Jose, inclusive, and U. S. Highway 40 and State Highways 9 and 17 between Richmond, and Santa Cruz, inclusive. Seller and purchaser also operate pursuant to permits issued by this Commission.

Applicants propose to seek corresponding authority from the Interstate Commerce Commission for approval of the transfer of the Certificate of Registration.

The consideration to be paid by purchaser to seller for said operating rights is the total sum of Fifteen Thousand Dollars (\$15,000.00). Ten Thousand Dollars (\$10,000.00) is for the intra-state authority and Five Thousand Dollars (\$5,000.00) for the interstate Certificate of Registration, to be paid in cash at the time the transfer is approved by this Commission and the Interstate Commerce Commission. Purchaser presently operates four van trucks and will add two additional van trucks to its fleet. Its balance sheet as of January 31, 1975 shows total assets of \$24,870.00 and total liabilities of \$6,945.00.

Seller is party to Pacific Motor Tariff Bureau, Inc., tariff publications as are necessary for the publication of rates in connection with the certificate and purchaser proposes to adopt these publications. A copy of the application has been forwarded to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of April 18, 1975.

The applicants request relief from Rule 37 of the Commission's Rules of Practice and Procedure, which rule requires wide dissemination of the application. The requested relief is on the basis of Rule 87, in order for applicants to secure just, speedy and inexpensive determination of the issues presented. No protests to the application have been received.

After consideration, the Commission finds that the requested deviation from Rule 37 should be authorized; that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized as set forth in the ensuing order. 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 L & V Trucking, Inc. and the issuance of a certificate in appendix form to Airport Ex-

press, Incorporated, a corporation. The new certificate issued to Airport Express, Incorporated will not broaden or change the interstate or foreign commerce rights held by the carrier.

Applicant purchaser 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.

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

O R D E R

IT IS ORDERED that:

1. On or before February 1, 1976, L & V Trucking, Inc., may sell and transfer the operative rights referred to in the application to Airport Express, Incorporated, 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 Airport Express, Incorporated, a California corporation, authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 60182 as transferred by Decision No. 63842, 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 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.

9. The applicants are granted a deviation from Rule 37 of the Commission's Rules of Practice and Procedure to the extent requested in the application.

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

Dated at San Francisco, California, this 3rd day of June, 1975.

Vernon L. Sturgeon
President
William J. Hynes, Jr.
Donald R. [illegible]
Leonard R. [illegible]
Robert R. [illegible]
Commissioners

Airport Express, Incorporated, 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 all points on or within 3 miles of the following routes:

1. U. S. Highway 101 and State Highway 82 between San Francisco and San Jose, inclusive;
2. Interstate Highway 80, and State Highways 238, 237, 17 and 9 between Richmond and Santa Cruz, inclusive.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service.

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

1. Used household goods and personal effects 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, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting).
2. 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.

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3. 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.
4. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
5. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
6. Logs.
7. Fresh fruits and vegetables (not cold pack nor frozen).

(END OF APPENDIX A)

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