

Decision No. 84931

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ACTIVE TRANSPORT, INC., a corporation,  
doing business as ACTIVE TRUCKING  
SERVICE, for authority to issue shares  
of its common capital stock and to  
assume long term obligations,

and

EDGAR R. CODE, an individual, doing business as ACTIVE TRUCKING SERVICE, a sole proprietorship, to sell and ACTIVE TRANSPORT, INC., a corporation, doing business as ACTIVE TRUCKING SERVICE, to purchase Highway Common Carrier Operating Rights and Property, pursuant to Section 851 of the California Public Utilities Code.

Application No. 55869  
(Filed August 15, 1975)

O P I N I O N

Edgar R. Cude, doing business as Active Trucking Service, seeks authority to sell and transfer his highway common carrier certificate of public convenience and necessity and related assets to Active Transport, Inc., and the latter seeks authority to assume liabilities and to issue 80 shares of its capital stock at a stated value of \$100 per share.

By Decision No. 84114, dated February 19, 1975, in Application No. 52790, the Commission granted to Edgar R. Cude a certificate of public convenience and necessity authorizing him to operate as a highway common carrier of general commodities in portions of southern California. He desires to transfer such certificate, together with related assets to Active Transport, Inc., a California corporation incorporated on January 18, 1974.

Active Transport, Inc., doing business as Active Trucking Service, proposes to issue 80 shares of its no par capital stock at a stated value of \$100 per share and to assume liabilities, all for the purpose of acquiring assets of Edgar R. Cude, doing business as Active Trucking Service. A pro forma balance sheet dated June 1, 1975, giving effect to the proposed transactions, is summarized from Exhibit C, attached to the application, as follows:

<u>Assets</u>	
Current assets	\$ 61,634
Equipment and improvements - net	87,519
Other assets	<u>7,835</u>
Total	<u>\$156,988</u>
<u>Liabilities</u>	
Current liabilities	\$136,201
Long-term debt, less current portion	12,787
Capital stock	<u>8,000</u>
Total	<u>\$156,988</u>

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be granted. 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 Edgar R. Cude, doing business as Active Trucking Service, and the issuance of a certificate in appendix form to Active Transport, Inc., doing business as Active Trucking Service.

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

Active Transport, 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 after the effective date hereof and on or before December 31, 1975, Edgar R. Cude may sell and transfer the operative rights and property referred to in the application to Active Transport, Inc. For accounting purposes applicants may consummate the transfer and related transactions as of May 31, 1975.

2. Active Transport, Inc., on or after the effective date hereof and on or before December 31, 1975, may assume the long-term equipment obligations referred to in the application and, for the purpose specified in this proceeding, may issue 80 shares of its capital stock at a stated value of \$100 per share as follows: 44 shares to Edgar R. Cude, 32 shares to Roger E. Cude, and 4 shares to Alvin A. Forbes.

3. Active Transport, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the transfer Active Transport, Inc. shall file with the Commission written acceptance of the certificate of public convenience and necessity and a true copy of the bill of sale or other instrument of transfer.

5. Active Transport, Inc., doing business as Active Trucking Service, 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.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Active Transport, Inc., doing business as Active Trucking Service, 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 of this decision.

7. The certificate of public convenience and necessity granted by Decision No. 84114 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

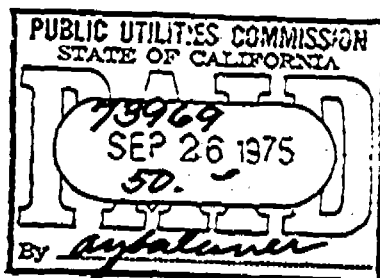
8. Active Transport, Inc. shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.


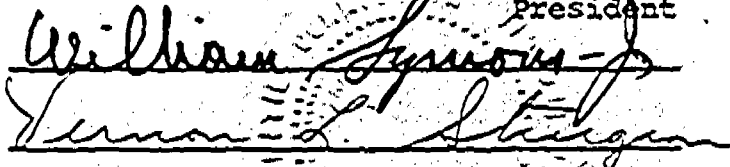
9. Active Transport, Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

10. Active Transport, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Active Transport, Inc. elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. This order shall become effective when Active Transport, Inc. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 23rd day  
of SEPTEMBER, 1975.



  
President  


Commissioners

Commissioner Leonard Ross, being  
necessarily absent, did not participate  
- 5 - in the disposition of this proceeding.

Commissioner Robert Batimovich, being  
necessarily absent, did not participate  
in the disposition of this proceeding.

Active Transport, 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:

1. All points and places in the Los Angeles Basin Territory as described in Note A.
2. All points and places in the territory described in paragraph 1 above on the one hand, and the following on the other hand, serving all intermediate points on or within ten miles laterally of the named highways:
  - (a) The San Diego Territory as described in Note B, via Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 78.
  - (b) To Bakersfield, via Interstate Highway 5 and State Highway 99.
  - (c) Mojave, via Interstate Highway 5 and State Highway 14.
  - (d) Santa Barbara, via U.S. Highway 101 and State Highway 1.

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,

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Active Transport, Inc.  
(a California corporation)  
doing business as  
ACTIVE TRUCKING SERVICE

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.
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. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

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10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

## Note A

## 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 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.

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Note B

SAN DIEGO TERRITORY

The San Diego Territory includes that area embraced by following an imaginary line starting at a point approximately four miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Highway 395; thence following an imaginary line running southeasterly to Lakeside on State Highway 67; thence southerly on County Road S 17 (San Diego County) and its prolongation to State Highway 94; easterly on State Highway 94 to Jamul; thence due south following an imaginary line to the California-Mexico Boundary Line; thence westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning.

(END OF APPENDIX A)

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