

Decision No. 85264**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Keyway Freight Lines, Inc., a)
 corporation, for authority to acquire)
 certificated operative rights; issue)
 Promissory Note; and execute and)
 deliver a Security Agreement; and)
 DAIGH & STEWART TRUCK CO., a)
 corporation, to transfer, pursuant)
 to Sections 816-830 and 851-854 of)
 the California Public Utilities Code.)

Application No. 55733
 (Filed June 12, 1975)

O P I N I O N

Daigh & Stewart Truck Co. seeks authority to transfer its highway common carrier certificate of public convenience and necessity to Keyway Freight Lines, and the latter seeks authority to issue an \$85,200 note and to execute and deliver a Security Agreement.

Daigh & Stewart Truck Co. is a California corporation operating as a highway common carrier pursuant to authority granted by Decision No. 61693, dated March 21, 1961, in Application No. 43087. In addition, the carrier operates under Interstate Commerce Commission authority and under permits issued by this Commission. For the year 1974, the carrier reported total operating revenues of \$361,733.

Keyway Freight Lines is a California corporation incorporated on February 4, 1975, and operates under a radial highway common carrier permit issued by this Commission on March 20, 1975. Such corporation has agreed to purchase Daigh & Stewart Truck Co.'s California intrastate certificate of public convenience and related certificate of registration.

together with its Interstate Commerce Commission certificate of public convenience and necessity. The purchase price of \$120,000 would be paid with \$34,800 cash and an \$85,200 note secured by a Security Agreement encumbering the operating rights. The note would be repayable in 48 monthly installments of \$1,775 plus interest at the rate of 10% per annum.

The transferee asserts that it is able, both financially and personnelwise, to operate more efficiently and to render a better service to the shipping public.

Transferor is party to Western Motor Tariff Bureau, Inc., Agent, tariff publications. Transferee proposes to adopt the tariffs. A copy of the application has been forwarded to the California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of June 13, 1975. There are no protests to the application.

After consideration the Commission finds that:

1. The proposed Security Agreement and transfer would not be adverse to the public interest.
2. The proposed note is for a proper purpose.
3. The money, property or labor to be procured or paid for by the note 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 Daigh & Stewart Truck Co. and the issuance of a certificate in appendix form to Keyway Freight Lines. This certificate will be restated, but such restatement will not change or broaden the authority transferred.

Keyway Freight Lines 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 after the effective date hereof and on or before June 30, 1976, Daigh & Stewart Truck Co. may sell and transfer the operative rights referred to in the application to Keyway Freight Lines.
2. Keyway Freight Lines, on or after the effective date hereof and on or before June 30, 1976, for the purpose specified in the application, may issue a Promissory Note in the principal amount of not exceeding \$85,200 and may execute and deliver a Security Agreement, which documents shall be in substantially the same forms as Appendices B and C, respectively, of Exhibit A attached to the application.
3. Keyway Freight Lines 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. 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. Within thirty days after the transfer Keyway Freight Lines 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.

6. Keyway Freight Lines 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.

7. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 6, a certificate of public convenience and necessity is granted to Keyway Freight Lines 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.

8. The certificate of public convenience and necessity granted by Decision No. 61693 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 6.

9. Keyway Freight Lines 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. Keyway Freight Lines shall comply with the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.


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

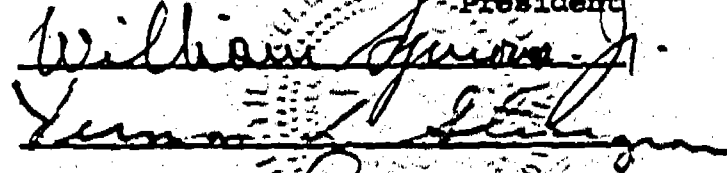
12. The authority granted by this order to issue a Promissory Note and to execute and deliver a Security Agreement will become effective when Keyway Freight Lines has paid the fee


A.55733 HN/LSC

prescribed by Section 1904(b) of the Public Utilities Code,
which fee is \$172. In other respects the effective date of
this order is the date hereof.

Dated at San Francisco, California, this 30th day
of DECEMBER, 1975.

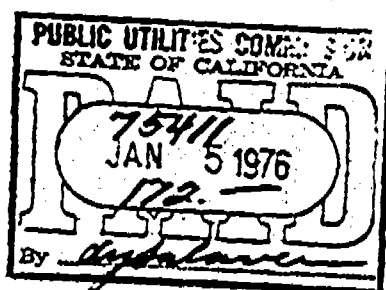


President




Commissioners

I abstain
Pub. Util. Comm.
Commissioner
Commissioner



Keyway Freight Lines, a California corporation, 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 property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipelines, refineries, and cracking or casing-head plants, material used in construction, and equipment used in farming:

- (1) Between all points and places on and within 50 miles laterally of the following highways:
 - (a) U.S. Highway 101 and State Highway 82 between California-Oregon State Line and Los Angeles; thence via Interstate Highway 5 to the California-Mexican Border;
 - (b) Interstate Highway 5 between California-Oregon State Line and Woodland; thence via State Highway 113 to Davis; thence via Interstate Highway 80 to Sacramento;
 - (c) State Highway 99 from Red Bluff to Sacramento;
 - (d) State Highway 99 between Sacramento and Wheeler Ridge; thence via Interstate Highway 5 to its junction with Interstate Highway 10 in Los Angeles; thence via Interstate Highway 10 to Indio; thence via State Highway 111 to its junction with State Highway 86 near Coachella; thence via State Highway 86 to its junction with State Highway 111 two miles east of Heber; thence via State Highway 111 to the California-Mexican Border;
 - (e) State Highway 299 between Redding and Alturas, inclusive;

Issued by California Public Utilities Commission.

Decision No. 85264, Application No. 55733.

- (f) U.S. Highway 395 between California-Oregon State Line and California-Nevada State Line, inclusive, via Alturas and Johnstonville;
- (g) State Highway 36 between Junction State Highway 99 near Red Bluff and Junction U.S. Highway 395 at Johnstonville, inclusive;
- (h) State Highway 20 between Marysville and its junction with Interstate Highway 80 west of Cisco, inclusive;
- (i) Interstate Highway 80 between San Francisco and California-Nevada State Line, inclusive;
- (j) U.S. Highway No. 50 between Sacramento and California-Nevada State Line, inclusive;
- (k) U.S. Highway 395 between California-Nevada State Line at Topaz Lake and its junction with Interstate Highway 15 near Hesperia;
- (l) Between Los Angeles and Needles via Mission Road, Huntington Drive and Foothill Boulevard to San Bernardino; thence via Interstate Highway 15 to its junction with Interstate Highway 40 near Barstow; thence via Interstate Highway 40 to its junction with U.S. Highway 66 east of Ludlow; thence via U.S. Highway 66 to its junction with Interstate Highway 40 approximately 12 miles east of Essex; thence via Interstate Highway 40 to Needles;
- (m) Interstate Highway 10 between Los Angeles and California-Arizona State Line, inclusive;
- (n) Interstate Highway 15 between Barstow and California-Nevada State Line, inclusive;
- (o) Interstate Highway 8 between San Diego and California-Arizona State Line, inclusive;
- (p) State Highway No. 127 between Baker and California-Nevada State Line, inclusive;

Issued by California Public Utilities Commission.

Decision No. 85264, Application No. 55733.

- (2) Through routes and rates may be established between any and all points and places specified in paragraph 1 above.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 85264, Application No. 55733.