

Decision No. 85265

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of WINANS BROS. TRUCKING CO. )  
To sell and transfer its operating )  
authority to ROBERT MORENO. )

Application No. 55904  
(Filed August 28, 1975)

OPINION

Winans Bros. Trucking Co., a California corporation, requests authority to sell and transfer and Robert Moreno, an individual, requests authority to purchase and acquire certificates of public convenience and necessity authorizing operations as a highway common carrier.

Said certificates were granted by Decision No. 43424, dated October 18, 1949, in Application No. 29621, and Decision No. 45016, dated November 21, 1950, in Application No. 37866. The certificates were transferred to applicant seller by Decision No. 53025, dated May 8, 1956, in Application No. 37866, and were registered with the Interstate Commerce Commission in Docket No. MC-106086 (Sub No. 14). The certificates authorize transportation of lumber and forest products generally between all points in this State. Seller also operates pursuant to permits issued by this Commission. Purchaser does not presently hold operating authority issued by this Commission.

Applicants are seeking corresponding authority from the Interstate Commerce Commission for approval of transfer of the Certificate of Registration.

It is alleged that Frank C. Winans and Grant A. Winans, principals of seller have been operating for many years and now desire to retire from the trucking business. It is further alleged

that applicant purchaser is familiar with the transportation industry and stands ready, willing and able to conduct and perpetuate the service heretofore provided the public by seller and that approval of the subject application will prevent the creation of any transportation gap in this particular field and continue to make available to the public an efficient and responsive service such as that heretofore provided by seller. The application indicates that the purchaser has resided in this State not less than 90 days next preceding the filing of the application.

Pursuant to the Purchase and Sale Agreement of July 22, 1975 between seller and purchaser the total purchase price for the certificates is \$7,500 payable in full on consummation of the sale which is contingent upon the final approval of the transaction by this Commission and the Interstate Commerce Commission.

The Personal Financial Statement of purchaser dated April 1, 1975 shows total assets of \$54,730, no liabilities.

Seller is party to California Motor Tariff Bureau and Pacific Coast Tariff Bureau, Agent, tariff publications. Purchaser proposes to adopt the tariffs. A copy of the application has been forwarded to the California Trucking Association and numerous carriers with whom the service may compete. Notice of the filing of the application appeared in the Commission's Daily Calendar of September 5, 1975. There are no protests to the application.

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 Winans Bros. Trucking Co., a corporation, and the issuance of a certificate in appendix form to Robert Moreno, an individual.

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 cancelled 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.

ORDER

IT IS ORDERED that:

1. On or before May 1, 1976, Winans Bros. Trucking Co., a corporation, may sell and transfer the operative rights referred to in the application to Robert Moreno, an individual.
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 he has adopted or established, as his own, the rates and rules. The tariff filings shall be made effective not earlier 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 Robert Moreno, an individual,

authorizing him 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 certificates of public convenience and necessity granted by Decision No. 43424 and Decision No. 45016 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

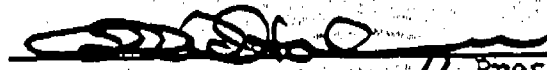
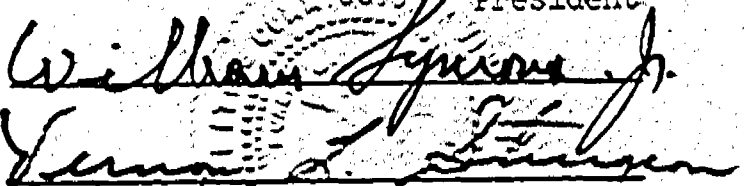

6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. Purchaser shall maintain his 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, he shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 30<sup>th</sup> day of  
December, 1975.

  
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President  
  
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*L. Chitai*  
*Patel Patel*  
*Commissioner*

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Commissioners

Robert Moreno, an individual, 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 Lumber and Forest Products as described in Item 683 on 12th Revised Page 51-C of Minimum Rate Tariff 2, effective December 2, 1972, between the points and over the routes hereinafter specified:

- A.
1. Over Interstate Highway 5 and State Highway 99 between California-Oregon State Line and Modesto.
  2. Over U.S. Highway 97 between California-Oregon State Line and Interstate Highway 5.
  3. Over State Highway 96 between Interstate Highway 5 and State Highway 299.
  4. Over State Highway 3 between Callahan and a point approximately one mile south of Carrville; thence via an unnumbered highway to Towerhouse on State Highway 299 (16 miles west of Redding)
  5. Over State Highway 89 between Interstate Highway 5 and State Highway 44.
  6. Over State Highway 299 between U.S. Highway 101 and Alturas.
  7. Over State Highway 44 between Interstate Highway 5 and State Highway 89.

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8. Over State Highway 36 between its junction with U.S. Highway 101 at Alton and its junction with an unnumbered road approximately one mile northeast of Westwood, thence via said unnumbered road to Westwood.
9. Over U.S. Highway 101 between its junctions with State Highway 299 and State Highway 36.
10. Over Interstate Highway 80 between San Francisco and Sacramento.
11. Over Interstate Highways 5, 205, 580 and 80 between Stockton and San Francisco.
12. Over U.S. Highway 101 and State Highway 82 between Santa Rosa and San Jose.
13. Over State Highway 12 between Interstate Highway 80 and Napa.
14. Over State Highway 37 via Sears Point between Interstate Highway 80 and U.S. Highway 101.
15. Over State Highway 17 between Oakland and San Jose.
16. Over Interstate Highway 80 via San Francisco-Oakland Bay Bridge between State Highway 17 and U.S. Highway 101.
17. With the right to serve points adjacent to the above routes located within the following laterals:
  - (a) 35 miles, north of Corning & Vina
  - (b) 10 miles, south of Corning & Vina
18. Serving all intermediate points.

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## 19. Subject to the following restrictions:

- a. No local service between points south of Woodland
- b. No service between Montague, Callahan and intermediate points
- c. No service between points on U.S. Highway 101 north of Alton and San Francisco Bay points
- d. No service to or from points on U.S. Highway 199
- e. No service to or from points on U.S. Highway 101 north of its junction with State Highway 299.

- B.
1. Between Sacramento and Berkeley via State Highways 13, 24, 4 and 160.
  2. Between San Jose and the California-Mexican border via U.S. Highway 101, State Highway 1 and Interstate Highway 5.
  3. Between Modesto and the California-Mexican border via State Highway 99 to Los Angeles; thence via Interstate Highway 10 to Riverside; thence via Interstate Highway 15 to San Diego; thence via Interstate Highway 8 to El Centro; thence via State Highway 111 to the California-Mexican Border.
  4. Between the junction of Interstate Highway 205 (Business) approximately three miles east of Tracy and State Highway 33, and Ventura via State Highway 33.
  5. Between Bakersfield and the California-Mexican border via State Highway 58 to its junction with U.S. Highway 395; thence via U.S. Highway 395 to its junction with Interstate

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Highway 15 near Hesperia; thence via Interstate Highway 15 to its junction with Interstate Highway 10 east of Colton; thence via Interstate Highway 10 to Indio; thence via State Highway 86 to its junction with State Highway 111 approximately 2 miles east of Heber; thence via State Highway 111 to the California-Mexican border.

6. Between Chico and the junction of State Highways 32 and 36 via State Highway 32.
7. Between Sacramento and the California-Nevada state line, via Interstate Highway 80.
8. Between Sacramento and the California-Nevada state line, via U.S. Highway 50.
9. With the right to serve points adjacent to the above routes located within 35 miles laterally thereof; and
10. Between intermediate points.
11. Subject to the restrictions with respect to the above numbered routes 1, 2, 3, 4 and 5 that shipments shall move between points and places north of and including Woodland, on the one hand, and points and places on said routes numbered 1, 2, 3, 4 and 5, on the other hand.

(END OF APPENDIX A)

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