

Decision No. 85672

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of FRANK E. ADAMS, an individual, )  
 doing business as ADAMS FREIGHT )  
 LINES, a sole proprietorship, )  
 and of BOULEVARD FREIGHT LINES, )  
 INC., a California corporation, )  
 for authority to transfer a cer- )  
 tificate of public convenience )  
 and necessity, for assignment )  
 of equipment and terminal )  
 leases, for authority to issue )  
 stock, assume indebtedness and )  
 execute security agreement. )

Application No. 56214  
 (Filed January 19, 1976)

O P I N I O N

Frank E. Adams, an individual doing business as Adams Freight Lines (seller) requests authority to sell and transfer, and Boulevard Freight Lines, Inc., a California corporation (purchaser) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier; and to assume certain leases for equipment and facilities. Purchaser also requests authority to assume seller's obligation under a \$139,045 note secured by a security interest agreement on the certificate to be transferred and on the certificate heretofore issued by the Interstate Commerce Commission in Docket MC-110325 (Sub No. 57) and to issue 3,000 shares of its \$10 per value capital stock.

The intrastate certificate was granted by Decision 84984, dated October 15, 1975, in Application 55790 and authorizes the transportation of general commodities between all points within the Greater Los Angeles area and between all points in that area and all points in the San Diego Territory, including all intermediate points between the two areas. Pursuant to the agreement

of sale dated January 13, 1976 between the applicants, the purchase price for the interstate and intrastate certificates and going concern value (goodwill) of seller's business is \$150,000. The additional amounts of \$6,045 will be paid for equipment now owned by seller and \$3,000 as a security deposit on an equipment lease between seller and Transcon Lines which will be assumed by purchaser. Purchaser will assume the balance of \$139,045 represented by a note payable to Transcon Lines, and secured by encumbrance of the interstate and intrastate certificates. In addition, purchaser will assume a lease for real property (terminal facilities) in Long Beach, California.

Purchaser is a newly formed corporation which has not yet issued capital stock. It proposes to issue 3000 shares of its \$10 per share par value capital stock to seller as consideration for \$20,000 and organizational expenses and working capital. The transaction will be consummated subsequent to administrative approval of affected State and Federal agencies.

Purchaser was incorporated primarily for the purpose of acquiring the certificates of public convenience and necessity referred to herein, and to operate under the same. Its principal officer will be seller and the management of the corporation will be the same personnel as that operating under the sole proprietorship of seller.

Seller is party to Western Motor Tariff Bureau, Inc., Agent, tariff publications as are necessary for publication of rates to cover the operations under the certificate to be transferred. Purchaser proposes to adopt the tariffs. Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which require wide distribution of the application. Service of the application was made upon the California Trucking Association and notice of the application was listed in the Commission's Daily Calendar on January 27, 1976. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed transfer of the intrastate certificate and encumbrance of such operating rights would not be adverse to the public interest.
2. The proposed stock issue would be for a proper purpose.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.
5. The assumption of debt by purchaser as proposed in the application should be authorized.

The Commission concludes that, except as it applies to the certificate of public convenience and necessity issued by the Interstate Commerce Commission, the application should be granted 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 held by Frank E. Adams and the issuance of a certificate in appendix form to Boulevard Freight Lines, Inc., a corporation. The new certificate issued to the purchaser will not broaden or change the interstate or foreign commerce rights held by the carrier.

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, properties and leases authorized to be transferred or the value of the capital stock of Boulevard Freight Lines, Inc.

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1976 Frank E. Adams may sell and transfer the operative rights issued by this Commission, and the properties and leases referred to in the application to Boulevard Freight Lines, Inc., 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 80-Series. Failure to comply with the provisions of General Order 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 Boulevard Freight Lines, Inc., 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 84984 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 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 April 30 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 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 the Commission's Rules of Practice and Procedure to the extent requested in the application.

10. Boulevard Freight Lines, Inc., on or after the effective date hereof and on or before September 1, 1976, for

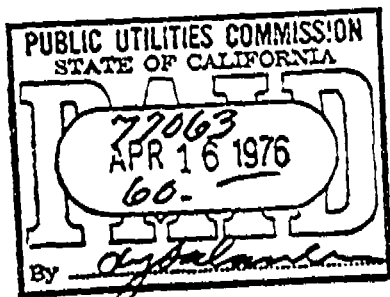
the purposes specified in this proceeding, may issue not exceeding a total of 3000 shares of its capital stock at an issue price of \$10 per share.

11. Boulevard Freight Lines, Inc., may assume indebtedness as requested in the application.

12. Boulevard Freight Lines, Inc., shall file with the Commission the report required by General Order 24-B, which order insofar report required by General Order 24-B, which order insofar as applicable, is hereby made a part of this order.

13. The authority granted by this order to issue stock will will become effective when Boulevard Freight Lines, Inc., has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$60. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of April, 1976.



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President  
*William S. Sponson, Jr.*  
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*Vernon L. Stenger*  
\_\_\_\_\_  
*Don*  
\_\_\_\_\_  
*Robert B. ...*  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Boulevard Freight Lines, 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 with the exceptions hereinafter noted:

- (1) Between all points within the Greater Los Angeles Area as hereinafter described, and
- (2) Between all points in said area on the one hand and on the other hand, all points in the San Diego Territory as hereinafter described over and along Interstate Highway 5 and State Highway 1 from Los Angeles to San Diego, serving all intermediate points on said highways and all off-route points located within five miles of said highways including El Toro Marine Base.

The Greater Los Angeles Area is described as follows:

Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; northerly along Interstate Highway 405 to Ventura Boulevard; westerly along Ventura Boulevard to Topanga Canyon Boulevard; northerly along Topanga Canyon Boulevard to Santa Susana Avenue; northerly along Santa Susana Avenue to San Fernando Mission Boulevard; easterly and northeasterly along San Fernando Mission Boulevard and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest boundary and San Bernardo National Forest boundary to the Riverside County boundary east of Yucaipa;

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southerly and westerly along the Riverside County boundary to a point directly north of Redlands Boulevard; southerly from said point along an imaginary line and along Redlands Boulevard to Alessandro Avenue in Moreno; westerly along Alessandro Avenue to Perris Boulevard; southerly along Perris Boulevard to the county road paralleling the southerly boundary of March Air Force Base; westerly along said county road to Interstate Highway 15; northerly and westerly along Interstate Highway 15 to State Highway 91; southwesterly along State Highway 91 to intersection of State Highways 91 and 55; southerly on State Highway 55 to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning.

The San Diego Territory is described as follows:

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 Interstate Highway 15; 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.

Applicant shall not transport any shipments of:

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1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (a) (1) of Item 20-C of Minimum Rate Tariff 4-B.
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.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.

PROVIDED, however, that the above restrictions against transporting general commodities numbered 1 to 8 inclusive shall

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not apply to movements of general commodities between the points of Los Angeles, Los Angeles Harbor or Long Beach Harbor.

(END OF APPENDIX A)