

ORIGINAL

Decision No. 86068

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of Senna Trucking Co., Inc., to)	Application No. 56362
transfer, and Sebring Transport,)	(Filed March 29, 1976)
Inc., to acquire a Certificate of)	
Public Convenience and Necessity.)	

O P I N I O N

Senna Trucking Co., Inc., a California corporation (Seller), requests authority to sell and transfer and Sebring Transport, Inc., a California corporation (Purchaser) requests authority to purchase and acquire a portion of a certificate of public convenience and necessity authorizing operations as a highway common carrier and certain highway vehicles and other equipment.

The certificate was granted by Decision 84095, dated February 19, 1975, in Application 55312 and is registered with the Interstate Commerce Commission in Docket MC-111313 (Sub-No. 1). It authorizes transportation of general commodities, with the usual exceptions, between points and places within the San Francisco Territory, specified commodities between said territory and the Los Angeles Territory and lumber and forest products over specified routes within the area generally north of a line running east from Carmel to the California-Nevada State Line.

The applicants propose the sale and transfer of that portion of the certificate authorizing operations between points within the San Francisco Territory.

Seller's radial highway common carrier permit which is included in the sale was transferred to purchaser on April 22, 1976.

Pursuant to the agreement of December 30, 1975 between the applicants, consideration for the sale is the sum of \$100,000 allocated as follows:

1. Certificate and Permit - \$15,000
2. Highway and other equipment - \$55,000

3. Agreement not to compete - \$20,000
4. Goodwill - \$10,000

The sum of \$25,000 cash is to be paid upon consummation of the transaction which is contingent upon the approval of governing State and Federal agencies. The balance of the sale price will be payable, pursuant to a promissory note, in equal monthly installments over a seven-year period including interest at 7% per annum. The note will be secured by a security agreement on the certificate and highway equipment to be sold which includes 23 highway vehicles, three forklifts and various items of office equipment. Purchaser's pro forma balance sheet of March 1, 1976 shows net worth of \$25,000. Seller will operate two tractors, one truck, two trailers and other highway equipment under the authority it will retain.

Applicants indicate that seller's president no longer desires to assume the responsibility of management and control of a trucking business, and wishes to gradually withdraw from the transportation business and direct his efforts in related transportation fields. Purchaser's President, on the other hand, by the reason of past employment in executive positions with major carriers is experienced and knowledgeable in the transportation industry and now wishes to engage in such operation within this State.

Seller is party to Pacific Coast Tariff Bureau tariff publications as are necessary for publication of rates to cover the operations under the certificate to be transferred. Purchaser proposes to adopt such tariffs.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. A copy of the application was served on the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of March 30, 1976. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed transfer of the certificate and the sale and encumbrance of the highway equipment would not be adverse to the public interest.

2. The requested deviation from the Commission Rules of Practice and Procedure should be authorized.
3. The money, property or labor to be procured or paid for by the note issuance 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 highway and other equipment herein authorized to be sold is no longer necessary or useful in the performance of the obligation of Senna Trucking Co., Inc., to serve the public.

The Commission concludes that the proposed transactions should be authorized as set forth in the ensuing order. A public hearing is not necessary. The operating rights will be restated in the form of new certificates. The new certificates issued to the applicants will not broaden or change the interstate or foreign commerce rights heretofore held by the seller. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Senna Trucking Co., Inc., and the issuance of in lieu certificates in appendix form to Senna Trucking Co., Inc., and Sebring Transport, Inc.

Applicants are 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 the number of rights which may be given. The authorization granted shall not be construed as a finding of the value of the rights and equipment authorized to be sold and transferred.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1976, Senna Trucking Co., Inc., may sell and transfer the operative rights and property referred to in the application to Sebring Transport, Inc.
2. Within thirty days after the transfer applicants shall file with the Commission written acceptance of the certificates and the purchaser shall file with the Commission a true copy of the bill of sale or other instrument of transfer.
3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the authority granted by this decision to show that they have adopted or established as their 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, certificates of public convenience and necessity are granted to Senna Trucking Co., Inc., and Sebring Transport, Inc., authorizing them to operate as highway common carriers as defined in Section 213 of the Public Utilities Code, between the points and over the routes set forth in the Appendices attached hereto and made a part hereof.
5. The certificate of public convenience and necessity granted by Decision 84095 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Applicants 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. Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. Applicants shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If they elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

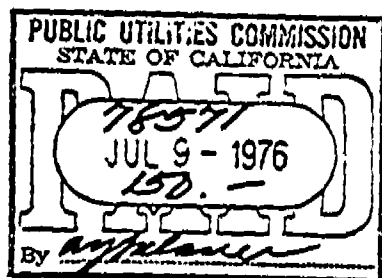
9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested.

10. On or after the effective date hereof and on or before December 31, 1976, purchaser, for the purposes specified in this proceeding, may issue a promissory note aggregating an amount not exceeding \$75,000 and may execute and deliver a security agreement, such note and agreement to be in substantially the same form as those attached to the application as Exhibit "D".

11. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order 24-Series.

The authority granted by this order to issue a promissory note will become effective when the issuer has paid the fee, prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$150. In all other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 7th day of
July, 1976.



[Signature] President
William S. [Signature]
[Signature]
[Signature]
Robert Bateman Commissioners

Senna Trucking Co., 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 as follows:

- A. COMMODITIES named below, between the San Francisco Territory as described in Note A and the Los Angeles Territory as described in Note B:
1. BOILERS, FURNACES, RADIATORS, STOVES, RELATED ARTICLES OR PARTS NAMED, as described in Items Nos. 25400 to 27682.
 2. IRON OR STEEL, as described in Items Nos. 104000 to 107520.
 3. CONDUITS, PIPE, SMOKESTACKS, TUBING OR FITTINGS, OTHER THAN CLAY, CONCRETE OR EARTHEN, as described in Items Nos. 50750 to 52620.
 4. ALUMINUM ARTICLES, as described in Items Nos. 13100 to 13812.
 5. BRASS, BRONZE AND COPPER, as described in Items Nos. 30100 to 31000.
 6. MACHINERY, as described in Items Nos. 114000 to 133454.
 7. MISCELLANEOUS COMMODITIES, VIZ.:

Rubber, reclaimed
Rubber, crude
Scrap metal

Part A alone does not include the right to render service to, from or between intermediate points.

The term "Items", as used above, means the items so designated in National Motor Freight Classification A-8, F. G. Freud, Issuing Officer, on the issued date thereof, including Supplements 7, 9, 10 and 11 thereto.

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B. LUMBER AND FOREST PRODUCTS:

1. Between all points in that part of California north of a line beginning at the Pacific Coast west of Carmel and extending through Carmel to Merced; thence, to the California-Nevada State Line through the junction of U.S. Highway 395 and State Highway 89, near Topaz.
2. In performing the service in this part, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Note A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to

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Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

Note B

LOS ANGELES TERRITORY

The Los Angeles Territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the City of San Fernando); thence southeasterly along State Highway 118 to and including the City of Pasadena; thence easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street, south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boulevard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along

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Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline 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.

(END OF APPENDIX A)

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Sebring 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 as follows:

- A. GENERAL COMMODITIES between all points and places in the San Francisco Territory as described in Note A.

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, 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
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 hopper-type trucks.

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6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Cement.
8. Logs.
9. Commodities of unusual or extraordinary value.
10. Fresh Fruits and vegetables.

Note A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.;

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(END OF APPENDIX B)

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