

ORIGINAL

Decision No. 86071

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
 of WILLIAM J. GONZALEZ, doing)
 business as GONZALEZ FREIGHT)
 LINES, for authority to transfer)
 his certificate of Public Conve-)
 nience and Necessity and Opera-)
 ting Property to GONZALEZ FREIGHT)
 LINES, INC., and for authority)
 for the latter to issue 35,000)
 shares of \$1.00 par value Capital)
 Stock and assume equipment obli-)
 gations.

Application No. 56357
 (Filed March 26, 1976)

O P I N I O N

William J. Gonzalez, an individual (transferor) doing business as Gonzalez Freight Lines seeks authority to sell and transfer his highway common carrier certificate and operating property plus related assets to Gonzalez Freight Lines, Inc., a California corporation (transferee). Gonzalez Freight Lines, Inc., requests authority to purchase and acquire said certificate and assets and to assume equipment obligations and issue capital stock.

The certificate was granted by Decision 60504, dated August 2, 1960, in Application 41936 and authorizes transportation of general commodities with the usual exceptions between the San Francisco-East Bay Cartage Zone, Sacramento and the San Jose area. The certificate was registered with the Interstate Commerce Commission in Docket MC 99298 (Sub 1). Transferor also operates pursuant to permits issued by this Commission which are the subject of a separate transfer application.

Transferee was incorporated on October 17, 1975 and is authorized by its Articles of Incorporation to issue 1,000,000 shares of capital stock of one class only at par value of \$1.00 per share. No shares of stock are presently issued and outstanding.

By this application, it seeks authorization to issue 35,000 shares of stock at \$1.00 per share in the amount of \$35,000 to William J. Gonzalez, as consideration for the acquisition of the property of the transferor. X

Transferee also seeks authority to assume obligations outstanding on the equipment to be transferred, which, according to a schedule of such obligations submitted as Exhibit D of the Application, total \$19,646.00. The transferee will also assume a lease dated March 2, 1963 between W.C. Thompson and Opal Fern Thompson and the transferor covering the property and terminal of the transferor which will be used by the transferee. Said lease is for a 15 year period commencing on April 1, 1963 at the rate of \$700.00 per month plus adjustments for taxes.

Transferee proposes to continue the operations as presently conducted by the transferor using properties concurrently acquired with the rights to perform the services.

Transferor is party to Pacific Coast Tariff Bureau tariff publications which transferee proposes to adopt.

The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require copies of the application to be widely disseminated. A copy of the application was mailed to the California Trucking Association and the Traffic Manager, State of California. Notice of the filing of the application appeared in the Commission Daily Calendar of March 29, 1976. No protests to the application have been received.

After consideration the Commission finds:

1. The requested deviation from its Rules of Practice and Procedure should be authorized.
2. The proposed transfer of the certificate and property referred to in the application, and assumption of equipment obligations, would not be adverse to the public interest and should be authorized.
3. The proposed stock issue would be for a proper purpose.

4. The highway equipment and other property herein authorized to be sold would no longer be necessary or useful in the performance of the duty of William T. Gonzales as a public utility to the public.

5. The money, property or labor, to be procured or paid for by the stock issue 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.

6. Control of Gonzalez Freight Lines, Inc., by William J. Gonzalez would not be adverse to the public interest.

The Commission concludes that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the capital stock of Gonzalez Freight Lines, Inc., or the certificate of public convenience and necessity and equipment to be transferred.

The order which follows will provide for, in the event the transfer is completed, the revocation of the highway common carrier certificate presently held by William J. Gonzalez and the issuance of a certificate in appendix form to Gonzalez Freight Lines, Inc., a California corporation.

The new certificate issued to Gonzalez Freight Lines, Inc., will not broaden or change the interstate or foreign commerce rights held by William J. Gonzalez, doing business as Gonzalez Freight Lines.

Transferee 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 cancelled 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 before December 1, 1976, William J. Gonzalez may sell and transfer the operative rights and related assets referred to in the application to Gonzalez Freight Lines, Inc., a California corporation.
2. Within thirty days after the transfer the transferee 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. Transferee 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 authorities 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, hereof, a certificate of public convenience and necessity is granted to Gonzalez 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 60504 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee 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. Transferee 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. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferee 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. Gonzalez Freight Lines, Inc., on or after the effective date hereof and on or before December 1, 1976 for the purpose specified in this proceeding may issue not to exceed a total of 35,000 shares of its capital stock with a par value of \$1.00 per share, at an issue price of \$1.00 per share, to William J. Gonzalez.

11. William J. Gonzalez may control Gonzalez Freight Lines, Inc., a California corporation.

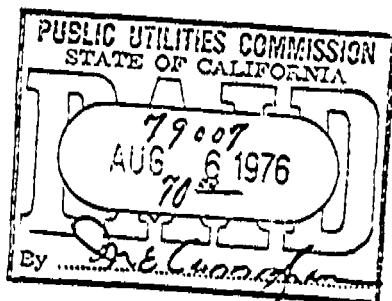
12. On or before December 1, 1976 William J. Gonzalez shall file a report informing the Commission whether or not the stock acquisition has been completed.

13. Transferee may assume the equipment obligations of the transferor as requested in the application.

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

15. This order shall become effective when Gonzalez Freight Lines, Inc., has paid the fee prescribed by Section 1904.1 of of the Public Utilities Code, which fee is \$70.00.

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



[Signature] President
William J. Gonzalez
Vernon L. Sturgeon
[Signature]
Robert Bateman Commissioners

A. Gonzalez 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 between all points and places and over the routes specified as follows:

1. Between all points within the San Francisco-East Bay Cartage Zone as described in Note A hereof.
2. Between the San Francisco-East Bay Cartage Zone as described in Note A hereof and San Jose and all intermediate points thereto via U.S. Highway 101 and State Highway 82.
3. Between the San Francisco-East Bay Cartage Zone as described in Note A hereof and San Jose and all intermediate points thereto via State Highways 17 and 238 and Interstate Highway 680.
4. Between all the points hereinabove set forth in paragraphs 1 and 2 and Sacramento and all points intermediate thereto via Interstate Highways 80, 580, 205, and 5.
5. Between all the points hereinabove set forth in paragraphs 1 and 2 and Cupertino, Campbell and Los Altos.
6. Between any and all points set forth in 1 through 5 above.

Service is authorized to or from any points within a distance of three statute miles of any and all of the above mentioned points and routes.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

Issued by Public Utilities Commission.

Decision No. 86071, Application No. 56357.

B.

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, 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-type trucks or trailers or in hopper-type trucks or trailers.

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Decision No. 86071, Application No. 56357.

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. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

NOTE A

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence

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Decision No. 86071, Application No. 56357.

easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)