

Decision 82 04 033 APR 2 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF APPLICATION OF )  
G. & L. ENTERPRISES DBA SUPERIOR )  
MAIL DELIVERY SERVICE, A PART- )  
NERSHIP TO ACQUIRE, AND )  
BERNADINE SMITH, AS SURVIVING )  
SPOUSE OF JOSEPH E. SMITH, AN )  
INDIVIDUAL TO TRANSFER A COMMON )  
CARRIER CERTIFICATE T-127760 )  
(AND CERTAIN PROPERTY PURSUANT )  
TO SECTION 851, et seq., OF THE )  
CALIFORNIA PUBLIC UTILITIES )  
CODE.) )

Application 59916  
(Filed August 28, 1980;  
amended November 23, 1981)

O P I N I O N

Bernadine M. Smith (Seller), an individual doing business as Superior Mail Delivery Service, requests authority to sell, and Gary R. Fisher and Larry R. Latulip (Purchasers), co-partners doing business as Superior Mail Delivery Service, propose to purchase a highway common carrier certificate of public convenience and necessity.

The certificate was issued under Public Utilities (PU) Code Section 1063.5 in Application GC 10121 under File T-127,760. It authorizes the statewide transportation of general commodities with the usual exclusions.

Seller has certified to operations conducted in good faith under that authority in Los Angeles County. Under PU Code Section 1064.5, for a period of five years after issuance, only that portion of the certificate which has been exercised may be transferred. Seller requests that she retain the remaining portion of the certificate.

One of the Purchasers has been an employee of Seller since 1965. Purchasers' balance sheet, attached as Exhibit C of the application, shows a net worth of \$33,050 as of June 30, 1980.

Seller and Purchasers have agreed to a purchase price of \$50,000, of which \$30,000 shall be allocated to the operating rights and \$20,000 shall be allocated to the revenue equipment. The terms of sale are \$20,000 cash and the balance of \$30,000 to be evidenced by a promissory note secured by the revenue equipment. Rule 33 of the Commission's Rules of Practice and Procedure was amended to exempt certain financial transactions of highway common carriers from the requisite approval of the Commission, as described in PU Code Sections 816 et seq. The proposed promissory note qualifies for the exemption.

Copies of the application and its amendment were furnished to the California Trucking Association. Notices of the filing of the application and its amendment appeared in the Commission's Daily Calendars of September 5, 1980 and December 2,

1981, respectively. No protests have been received. Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide distribution of the application.

Findings of Fact

1. Purchasers have the ability, including financial ability, to conduct the proposed operations.
2. A public hearing is not necessary.
3. Under Rule 33(g) of the Commission's Rules of Practice and Procedure, the security transaction involved is exempt from the need to obtain specific Commission approval.
4. The order which follows has no reasonably foreseeable impact upon the energy efficiency of highway carriers.

Conclusions of Law

1. The proposed transfer is not adverse to the public interest.
2. The application, including applicants' request for relief from the provisions of Rule 37(a) of the Commission's Rules of Practice and Procedure, should be granted.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Bernadine M. Smith, an individual, may sell and transfer the operative rights (and property) specified in the application to Gary R. Fisher and Larry R. Latulip, a partnership. This authorization shall expire if not exercised by July 1, 1982, or within such additional time as the Commission may authorize.

2. Applicants shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue their tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, 104, and 147 and the California Highway Patrol safety rules.
- d. Maintain accounting records in conformity with the Uniform System of Accounts.
- e. Comply with General Order Series 84 (collect-on-delivery shipments). If applicants elect not to transport collect-on-delivery shipments, they shall file the tariff provisions required by that General Order.

3. When the transfer is completed, and on the effective date of the tariffs, a certificate of public convenience and necessity is granted to Gary R. Fisher and Larry R. Latulip, a partnership, authorizing them to operate as a highway common carrier, as defined in PU Code Section 213 between the points listed in Appendix A.

4. When the transfer is completed, and on the effective date of the tariffs, the certificate of public convenience and necessity granted to Bernadine M. Smith, an individual, in Application GC 10121 is amended as set forth in Appendix B.

5. Applicants' request for relief from the provision of Rule 37(a) of the Commission's Rules of Practice and Procedure is granted.

This order becomes effective 30 days from today.

Dated APR 21 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. CRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. CREW  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

Gary R. Fisher and Larry R. Latulip, a partnership, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to conduct operations as a highway common carrier as defined in Public Utilities Code Section 213 for the transportation of general commodities as follows:

Between all points in the County of Los Angeles.

Except that under the authority granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Ordinary livestock.
3. Petroleum or petroleum products in tank trucks or tank trailers.
4. Mining, building, paving, and construction materials, except cement or liquids, in bulk in dump truck equipment.
5. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.

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

Transferred from Certificate GC 10121, issued under PU Code Section 1063.5 on April 30, 1980.

Issued by California Public Utilities Commission.

Decision 82 04 093, Application 59916.

Appendix B  
Amendment to  
Section 1063.5  
Certificate

BERNADINE M. SMITH  
(an individual)

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Bernadine M. Smith, an individual, by the certificate of public convenience and necessity issued under Public Utilities (PU) Code Section 1063.5 in Application GC 10121, is authorized to conduct operations to the extent set forth in that certificate, as a highway common carrier, as defined in PU Code Section 213, except to, from, or between points in the County of Los Angeles.

(END OF APPENDIX B)

Issued by California Public Utilities Commission, original issue effective April 30, 1980, GC 10121.

82 04 093

Amended by Decision \_\_\_\_\_, Application 59916.