

ORIGINAL

Decision No. 86584

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of DONALD D. EVANS, an individual, )  
doing business as A.A.A. MOBILE )  
HOME TRANSPORT SERVICE, to trans- )  
fer to DOUG NAKAMURA, doing busi- )  
ness under the fictitious firm )  
name of MITSUEDA TRUCKING, the )  
Certificate of Public Convenience )  
and Necessity issued by the Public )  
Utilities Commission, and prop- )  
erty, pursuant to Sections 851- )  
853 of the California Public )  
Utilities Code, and authorization )  
to issue promissory note pursuant )  
to Section 818 of the California )  
Public Utilities Code, and autho- )  
rization to encumber the Certifi- )  
cate of Public Convenience and )  
Necessity pursuant to Section 851 )  
of the Public Utilities Code. )

Application No. 56693  
(Filed August 13, 1976)

O P I N I O N

Donald D. Evans, an individual, doing business as A.A.A. Mobile Home Transport Service (seller), requests authority to sell and transfer and Doug Nakamura, an individual, doing business as Mitsueda Trucking (purchaser), requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier. The certificate was granted by Decision 76451, dated November 18, 1969, in Application 50756 and authorizes transportation of trailer coaches, including integral parts, contents, furniture and other personal effects when transported within the trailer coach from points within Los Angeles, Orange, Riverside and San Bernardino Counties to all points in the State of California.

Pursuant to the Agreement For Purchase and Sale of Assets executed by the applicants on April 15, 1976, the total consideration for the transaction is \$33,333.33. Purchaser also agrees to purchase seller's highway contract carrier permit and other assets. The purchase price for the entire transaction is allocated as follows:

1. Highway Equipment	\$ 1,452.50
2. Highway Contract Carrier Permit	500.00
3. Certificate of Public Convenience and Necessity	7,845.20
4. Covenant Not to Compete	15,690.40
5. Customer Lists and Goodwill	<u>7,845.23</u>
TOTAL	\$33,333.33

Payment of purchase price will be made with \$10,000 in cash and a promissory note in the amount of \$23,333.33 payable in equal monthly installments of \$336.19, or more, per month, including interest at the rate of 8-1/2% per annum on the unpaid balance, until paid in full. The note will be secured by a security agreement on the highway equipment and certificate. The highway contract carrier permit will be the subject of a separate application to transfer.

Purchaser presently holds a radial highway common carrier permit issued by this Commission. His financial statement of June 30, 1976 shows net worth of \$38,199.31.

Seller is party to Miller Traffic Service, Inc., Agent, Local Freight Tariff No. 3 tariff publications to provide rates and rules for operations under the certificate to be transferred. Purchaser proposes to adopt the tariffs.

A copy of the application has been forwarded to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of August 17, 1976. The applicants request relief from the provisions of the

Commission's Rules of Practice and Procedures which require wide dissemination of the application. No protests to the application have been received.

After consideration, the Commission finds:

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

2. The requested deviation from the Commission's Rules of Practice and Procedure should be authorized.

3. The proposed note issue is for the proper purposes. The money, property, or labor to be procured or paid for by the issue of the note authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. The highway equipment herein authorized to be sold is no longer necessary or useful in the performance of the obligation of seller to serve the public.

The Commission concludes that the proposed transactions are not adverse to the public interest and 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 presently held by Donald D. Evans and the issuance of a certificate in appendix form to Doug Nakamura.

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 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 value of the rights and properties authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before March 1, 1977, Donald D. Evans, an individual, may sell and transfer the operating rights and equipment referred to in the application to Doug Nakamura, 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 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 Doug Nakamura, an individual, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 76451 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order 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 April 30 of each year, an annual report of his 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, he 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. The issuer of the note authorized by this order shall file with the Commission a report, or reports, as required by General Order 24-Series.

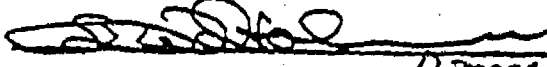
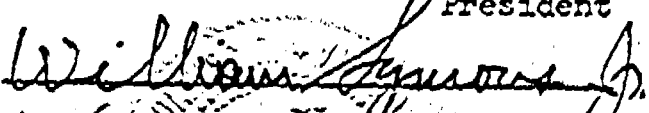
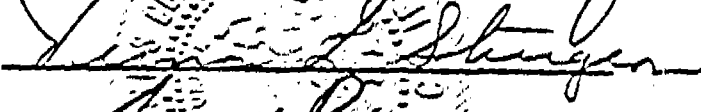
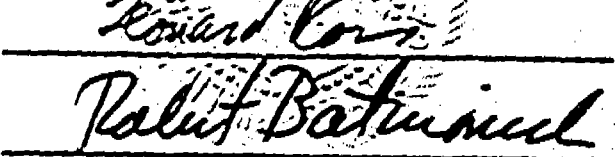
11. Purchaser may execute and deliver a note and security agreement in substantially the same forms referred to and for the purposes set forth in the application.

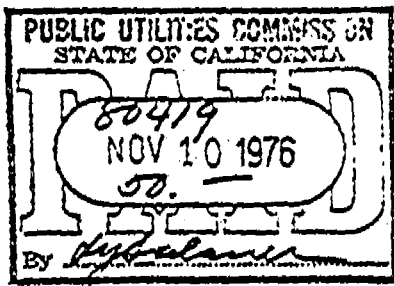
12. The authority granted by this order to execute and deliver an encumbering document will become effective when the issuer has paid the minimum fee prescribed by Section 1904(b) of the Public

A. 56693 - THP/jmw

Utilities Code, which fee is \$50. In all other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 2<sup>nd</sup> day of November, 1976.

  
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President  
  
  
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\_\_\_\_\_  
Commissioners



DOUG NAKAMURA  
(an individual)  
doing business as  
MITSUEDA TRUCKING

Doug Nakamura, 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 trailer coaches, including integral parts, contents, furniture and other personal effects when transported within the trailer coach, from points within Los Angeles, Orange, Riverside and San Bernardino Counties to any and all points in the State of California.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 86584, Application 56693.