

Decision No. 87259

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of J. D. S. TRUCKING, INC., a)
corporation, to sell, and of)
BASIC MATERIALS TRANSPORT, a)
corporation, to purchase, a cer-)
tificate of public convenience)
and necessity of general com-)
modities, between various points)
and places in California,)
pursuant to Sections 851-853 of)
the California Public Utilities)
Code.)

Application No. 57003
(Filed January 12, 1977)

O P I N I O N

J. D. S. TRUCKING, INC. a California corporation (seller), requests authority to sell and transfer and BASIC MATERIALS TRANSPORT, a California corporation (purchaser), requests authority to purchase and acquire a highway common carrier certificate of public convenience and necessity.

The certificate was granted by Decision 63059 of January 9, 1962 in Application 38505; acquired by seller through a transfer pursuant to Decision 71394 of October 11, 1966, as amended by Decision 71966 of February 7, 1967, in Application 48678. Said certificate was registered by seller with the Interstate Commerce Commission under Docket No. MC-99946 (Sub No. 1).

The certificate authorizes transportation of general commodities, with the usual exceptions, generally via Interstate Highway 80 between Sacramento and Auburn; also State Highway 49 between Auburn and Coloma, including certain points located north, east and south of State Highway 49.

Purchaser currently operates under radial highway common, highway contract and dump truck carrier permits issued by this Commission. It desires to acquire the certificated operating authority in order that it may expand its present operations and thus engage in business as a highway common carrier in intrastate, interstate and foreign commerce wholly within California. It anticipates that the traffic, which will be handled under the certificate, will include traffic which it presently handles as a permitted carrier, plus a substantial portion previously handled by seller under its certificate. As a result of the combined traffic of both carriers, the resulting service will be more efficient, economical and responsive to the public need than either of the services now provided by these carriers individually. Purchaser's balance sheet of March 31, 1976 shows a net worth of \$12,325. The applicants request that the Commission's decision be made effective on the date it is signed so as not to delay the transfer of the Certificate of Registration by the federal commission; also that the necessary tariff publications be authorized for publication on ten days' notice to the public.

The applicants request a waiver from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of such applications. A copy of the application was mailed to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of January 14, 1977. No protests to this application have been received.

Seller currently participates in rate tariffs published by Western Motor Tariff Bureau, Inc., Agent. Purchaser proposes to adopt said tariffs.

After consideration, the Commission finds that:

1. The proposed sale and transfer of the intrastate certificate would not be adverse to the California public interest.

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

The Commission concludes that the application should be granted as set forth in the ensuing order and that the effective date of this order should be the date on which it is signed because there is no known reason to delay granting the relief sought. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the California certificate now held by J. D. S. Trucking, Inc. and the issuance of an in-lieu certificate, in appendix form, to Basic Materials Transport. The route descriptions in the new certificate reflect the names of redesignated highways or roads and do not, in any way, broaden or change the interstate or foreign commerce rights involved.

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 to be transferred.

O R D E R

IT IS ORDERED that:

1. J. D. S. TRUCKING, INC., a California corporation, may sell and transfer the operative rights referred to in the application to BASIC MATERIALS TRANSPORT, a California corporation.

2. Within thirty days after the transfer, purchaser shall file with the Commission a 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, such rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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 BASIC MATERIALS TRANSPORT 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 or amended by Decisions 63059, 71394 and 71966 are 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 it 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.

The effective date of this order is the date hereof.

Dated at San Francisco, California this 26th day of APRIL, 1977.

Robert Batistich
President
William Lyons-Jr
Vernon L. Sturgeon
Charles D. Howell

Commissioners

Basic Materials Transport, a corporation, by the certificate of public convenience and necessity granted by 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 as follows:

1. Between the points located on the following routes:
 - (a) Interstate Highway 80 between Sacramento and Auburn with service at the off-route, intermediate points of Citrus Heights, Rocklin, Loomis, Penryn and Newcastle;
 - (b) State Highway 49 between Auburn and Coloma, inclusive;
 - (c) Unnumbered county road between its junction with State Highway 49 (near Coloma) and Lotus, inclusive;
 - (d) Unnumbered county road (Auburn-Foresthill Road) between its junction with State Highway 49 and Foresthill, inclusive;
 - (e) State Highway 193 between its junction with State Highway 49 (at Cool) and Georgetown, inclusive; and
 - (f) State Highway 193 between Georgetown and the junction of State Highways 193 and 49 (near Placerville), inclusive.
2. Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:
 - (a) Used household goods and personal effects not packed in salesman's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags,

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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).

- (b) 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.
- (c) 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.
- (d) 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.
- (e) Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
- (f) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
- (g) Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide), by mechanical refrigeration, or by release of liquefied gases.
- (h) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

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