

Decision No. 87730**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EX PARTE APPLICATION OF BISHER)
 TRUCK LINE, INC., a California)
 corporation, as Transferor and)
 JOHN C. DEGENFELDER and ARVONNE)
 B. DEGENFELDER, husband and wife,)
 as Transferees, to purchase a)
 Certificate of Public Convenience)
 and Necessity as a highway common)
 carrier between San Diego, Mesa)
 Grande, Oak Grove, Montezuma)
 Valley, Julian, Cuyamaca and)
 intermediate points, together)
 with certain other assets, and)
 to issue a \$2,575.00 note.)

Application No. 57372
 (Filed June 10, 1977)

O P I N I O N

Bisher Truck Line, Inc., a California corporation (seller), requests authority to sell and transfer and John C. Degenfelder and Arvonne B. Degenfelder, husband and wife (purchasers), request authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier, and certain highway equipment. The certificate was granted by Decision 62128, dated June 13, 1961, in Application 31996, as amended by Decision 74082, dated May 7, 1968, in Application 48547, and authorizes transportation of property over specified routes between San Diego, El Cajon, Ramona, Mesa Grande, Oak Grove, Montezuma Valley, Julian, Cuyamaca and intermediate points. The certificate is the subject of a coextensive Certificate of Registration issued by the Interstate Commerce Commission under Docket No. MC 4363 (Sub No. 3). Seller also operates pursuant to permits issued by this Commission. Disposition of these permits is not a part of this transaction.

The total purchase price for the certificate and the highway equipment, consisting of two van trucks, is \$5,150.00 of which

\$2,575.00 is payable in cash upon approval of the transaction by state and federal regulatory authorities. The balance of the purchase price is to be represented by an installment note and security agreement on the equipment which note provides for monthly payments, at eight percent interest per annum, of \$200.00 or more per month.

Purchasers' balance sheet of May 26, 1977 shows a net worth of \$169,541. They presently do not hold any operating authority issued by this Commission. They indicate that they have jointly owned and operated several other types of businesses and intend to use the fictitious name of Bisher Freight Service.

Seller is party to Western Motor Tariff Bureau, Inc., Agent, tariff publications which provide rates and rules for operations under the certificate to be transferred. Purchasers propose to adopt the same 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 June 13, 1977. The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed sale and transfer of the operating rights would not be adverse to the public interest.
2. The issuance of the proposed installment note and security agreement for the highway equipment does not require the authorization of this Commission.
3. The requested deviation 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. 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 held by Bisher Truck Line, Inc., and the issuance of a certificate, in appendix form, to John C. Degenfelder and Arvonne B. Degenfelder.

Purchasers are placed on notice that operative rights, as such, do not constitute a class of property which may be used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State 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 the value of the rights and equipment authorized to be transferred.

O R D E R

1. On or before May 1, 1978, Bisher Truck Line, Inc., a corporation, may sell and transfer the operating rights referred to in the application to John C. Degenfelder and Arvonne B. Degenfelder.
2. Within thirty days after the transfer, the purchasers 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. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred 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, a certificate of public convenience and necessity is granted to John C. Degenfelder and Arvonne B. Degenfelder authorizing them 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 62128, as amended, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchasers shall comply with the safety rules of the California Highway Patrol, and the insurance requirements of the Commission's General Order 100-Series.

7. Purchasers 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. Purchasers shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If purchasers 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 in

the application.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of AUGUST, 1977.

President

William J. Lyons, Jr.
James L. Sturgeon
Richard P. Howell

Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

John C. Degenfelder and Arvonne B. Degenfelder, 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 Section 213 of the Public Utilities Code for the transportation of property between all points and places as follows:

1. Interstate Highway 8 between San Diego and El Cajon, inclusive.
2. State Highway 67 between El Cajon and Ramona, including points and places within five statute miles laterally of such highway between its junction with San Diego County Road S4 and Ramona.
3. State Highway 78 between Escondido and Julian, inclusive, including points and places within five statute miles laterally of such highway between Escondido and Ramona.
4. State Highway 79 between Oak Grove and Cuyamaca, inclusive.
5. San Diego County Road S4 between its junction with Interstate Highway 15 and its junction with State Highway 67 via Poway, including points and places within five statute miles laterally of such county road.
6. Unnumbered highway between its junction with State Highways 78 and 79 near Julian and Pine Hills, inclusive.
7. Unnumbered highway between its junction with State Highway 79 near Santa Ysabel Mission and Mesa Grande, inclusive.

Issued by California Public Utilities Commission.

Decision 87720, Application 57372.

8. San Diego County Road S-22 between its junction with State Highway 79 (approximately 3 1/2 miles south of Warner Springs) and Montezuma Valley, inclusive.
9. Through routes and rates may be established between any and all points designated in subparagraphs 1 through 8 above.

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.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 87790, Application 57372.