

ORIGINAL

Decision No. 88212 DEC 6 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of: (a) SATELLITE TRUCKING COM-)
 PANY (formerly Atlantic Transfer)
 Company), a California corpora-)
 tion, for an order reflecting)
 a change in its corporate name.)

(b) D. E. XPRESS, INC., a Cal-)
 ifornia corporation, to purchase)
 from SATELLITE TRUCKING COMPANY)
 (formerly Atlantic Transfer Com-)
 pany), a California corporation,)
 the certificate of public con-)
 venience and necessity authori-)
 zing the transportation of gen-)
 eral commodities, with specified)
 exceptions, between points and)
 places in the Los Angeles Area.)

(c) D. E. XPRESS, INC., a Cal-)
 ifornia corporation, to issue)
 shares of its common capital)
 stock.)

Application No. 57508
 (Filed August 5, 1977)

O P I N I O N

Satellite Trucking Company (formerly Atlantic Transfer Company) is a corporation organized and existing under and by virtue of the laws of the State of California. On April 30, 1977 a Certificate of Amendment of Articles of Incorporation, previously filed with the Commission under the name of "Atlantic Transfer Company," was filed with the Secretary of State of the State of California changing the corporate name to "Satellite Trucking Company." A certified copy of the said Certificate of Amendment was filed as Exhibit "B" to this application. Satellite Trucking Company seeks an order reflecting the change of its corporate name from "Atlantic Transfer Company" to Satellite Trucking Company."

Satellite Trucking Company is a wholly owned subsidiary of Yellow Cab, a Nevada corporation, and together with Yellow Cab

is the subject of bankruptcy proceedings in the Federal District Court for the Southern District of California under Bankruptcy No. 76-3059-K. Appointed Receiver is one Robert N. Mateer and a copy of the Order approving Receiver's Bond was filed as Exhibit C to the application.

Satellite Trucking Company (Seller) also requests authority to sell and transfer and D. E. Xpress, Inc., a California corporation (purchaser) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier. The certificate was originally granted pursuant to Decision 48038 dated December 9, 1952 in Application 31630 and acquired by the seller pursuant to Decision 51419 dated May 3, 1955 in Application 36829. It authorizes the transportation of general commodities, with certain exceptions, between specified points and over specified routes in an area of Southern California approximately contiguous with Los Angeles Basin Territory except for certain areas of Riverside and Orange Counties. The certificate is the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC 35839, Sub. No. 2. Seller is also the holder of a Certificate of Public Convenience and Necessity issued by the Interstate Commerce Commission in Docket MC 35839 which authorizes the transportation of specified commodities between various points in California. Seller holds no other operating authority.

Mr. Dan J. Engelman, President and Chief Executive Officer of the Purchaser, has entered into an agreement to purchase the certificate subject to the approval of the Bankruptcy Court, which approval was granted by an order of the United States District Court for the Southern District of California signed March 11, 1977, a copy of which was filed as Exhibit D to this application. The selling price for the certificate is \$25,000 payable in cash upon consummation of the transfer.

Purchaser also seeks authority to issue 50,000 shares of common capital stock. The stock would be issued to the Purchaser's President and Chief Executive Officer for a total consideration of the payment of \$50,000 cash which will be used for the initial capitalization of the corporation. Attached to the application, marked Exhibit "F", is a copy of a pro forma balance sheet of the Purchaser giving effect to the issuance of the stock and the purchase of the certificate.

Seller is a party to Western Motor Tariff Bureau, Agent, tariff publications to provide rates for operations under the certificate to be transferred. Purchaser proposes to adopt Seller's tariffs.

The applicants request relief from the Commission's Rules of Practice and Procedure which requires wide dissemination of the application. The relief is requested in order to secure just, speedy, and inexpensive determination of the issues presented. It is alleged that a copy of the application was forwarded to the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of August 12, 1977. No protests to the application have been received.

After consideration the Commission finds:

1. The corporate name of the Seller should be changed on the Commission's records from "Atlantic Transfer Company" to "Satellite Trucking Company."
2. The proposed sale and transfer of the operating rights would not be adverse to the public interest provided that such authority is restated.
3. A public hearing is not necessary.
4. The proposed stock issuance is for a proper purpose. The money, property or labor to be procured or paid for by the issue of stock authorized in 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.

5. 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.

We approve the transfer of the operating authority but will require the purchaser to submit within one hundred and eighty (180) days a proposed in-lieu certificate encompassing all the authority transferred pursuant to this decision. The area covered by this authority includes a large part of Los Angeles County and parts of northwestern Orange County and western Riverside and San Bernardino Counties. These rights authorize service between certain points over designated routes, specifying the streets and highways which may be used. Because of the redesignation of highway route numbers and street changes in the Los Angeles Basin during recent years, many of the originally designated routes have lost identity and in some cases cease to exist because of freeway construction.

Purchaser is placed on notice that operating 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 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 authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. The Certificate of Public Convenience and Necessity, acquired by Atlantic Transfer Company, pursuant to Decision 48038 dated December 9, 1952 in Application 31630, as amended by Decision 74082 dated May 7, 1968 in Application 48547, is further amended by substituting the name of "Satellite Trucking Company" in place and instead of "Atlantic Transfer Company."

2. On or before August 1, 1978, Satellite Trucking Company a corporation, may sell and transfer the operating rights referred to in the application to D. E. Xpress, Inc., a corporation.

3. D. E. Xpress, Inc., on or after the effective date hereof and on or before August 1, 1978, for the purpose specified in the application, may issue not exceeding 50,000 shares of its capital stock to Dan J. Engelman for a value of \$1 per share in the principal amount not exceeding \$50,000.

4. D. E. Xpress, Inc. shall file with the Commission the report required by General Order 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. Within thirty days after the transfer, D. E. Xpress, Inc. 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.

6. 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, 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.

7. In the event the transfer authorized in paragraph (2) is completed, effective concurrently with the effective date of the tariff filings required by paragraph (6) herein, a certificate of public convenience and necessity is transferred to D. E. Xpress, Inc., a corporation, which authorizes 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 in Decision 48038 dated December 9, 1952 in Application 31630, as amended by Decision 74082 dated May 7, 1968 in Application 48547.

8. Within one hundred and eighty days after the consummation of the transfer authorized in paragraph 2 hereof, D. E. Xpress, Inc., shall submit to this Commission a proposed in-lieu certificate of public convenience and necessity which shall consist of a restatement of the highway common carrier authority herein transferred to D. E. Xpress, Inc.

9. D. E. Xpress, Inc., shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order 100-Series.

10. D. E. Xpress, Inc., 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.

11. D. E. Xpress, Inc., 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, it shall make the appropriate tariff filings as required by the General Order.

12. The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$100.

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In all other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 6th day of DECEMBER, 1977.

Robert Batinaich
President
William J. Lyons, Jr.
Vernon L. Sturgeon
Charles D. Goble
Clair T. Dedrick
Commissioners

