

ORIGINAL

Decision No. 88437

JAN 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of A. W. REID DRAYING)
COMPANY, a California corporation,)
for transfer of Highway Common)
Carrier Certificate No. 55601)
issued August 12, 1975 as the)
result of application to James S.)
Manlowe, doing business as A. W.)
REID DRAYING COMPANY.)

Application No. 57549
(Filed September 2, 1977)

O P I N I O N

James S. Manlowe, an individual, doing business as A. W. Reid Draying Company (transferor) requests authority to sell and transfer and A. W. Reid Draying Company, a California corporation, (transferee) seeks authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier and certain highway vehicles and other equipment.

The certificate was granted by Decision 71128 dated August 16, 1966, in Application 48534 and acquired by the present holder pursuant to Decision 84779 dated August 12, 1975 in Application 55601. The certificate is registered with the Interstate Commerce Commission in Docket No. 65185, (Sub No. 2) and authorizes transportation of general commodities, with the usual exclusions, between all points and places in the San Francisco-East Bay Cartage Zone.

Pursuant to an Agreement of Purchase and Sale of Assets of February 28, 1977, entered into by the parties, the selling price of \$66,333.21 was represented by cash and the assumption of certain obligations of the transferor by the transferee. The sum of \$18,000 was paid in cash and the balance of \$48,333.21 has been assumed by the transferee. Subject to the terms of the agreement, the transferor agrees to sell, transfer and deliver to the transferee all of the business including eighteen pieces of highway equipment and other assets.

Transferor is party to those Pacific Coast Tariff Bureau tariff publications as are necessary for the publication of rates to

cover the operations under the certificate to be transferred. Transferee proposes to adopt the said tariffs.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. A copy of the application was served on the California Trucking Association and notice of the filing of the application was made in the Commission's Daily Calendar of September 6, 1977. No protests to the application have been received.

After consideration, the Commission finds that:

1. The proposed transfer of the certificate and the sale of the highway 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.

The Commission concludes that the proposed transaction should be authorized as set forth in the ensuing order. A public hearing is not necessary. The operating rights will be restated in the form of a new certificate which will not broaden or change the interstate or foreign commerce rights heretofore held by the transferor. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by James S. Manlowe, an individual, doing business as A. W. Reid Draying Company, and the issuance of an "in lieu" certificate in appendix form to A. W. Reid Draying Company, a California corporation.

Transferee 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 and equipment authorized to be sold and transferred.

O R D E R

IT IS ORDERED that:

1. On or before June 30, 1978, James S. Manlowe, an individual doing business as A. W. Reid Draying Company, may sell and transfer the operative rights and property referred to in the application to A. W. Reid Draying Company, a California corporation.

2. Within thirty days after the transfer the transferee 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. Transferee 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 No. 80-Series. Failure to comply with the provisions of General Order No. 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 A. W. Reid Draying Company, a California corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in the Appendix A attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 84779 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee 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. Transferee 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. Transferee 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 shall be twenty days after the date hereof.

Dated at San Diego, California, this 31st day of JANUARY, 1978.

Robert Butman

President

William Spence Jr.

Richard D. Gault

Clair T. DeRies

Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

A. W. Reid Draying Company, 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 general commodities between all points and places in the San Francisco-East Bay Cartage Zone as described in Note A hereof, subject to the following exceptions:

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

1. Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, 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).
2. 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.
3. 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.
4. Articles of extraordinary value.
5. Commodities of abnormal size or weight which because of such size or weight require the use of and are transported on low bed equipment.

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.

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NOTE A

SAN FRANCISCO-EAST BAY CARTAGE ZONE

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence

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westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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