

Decision No. 88732 APR 18 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RALPH O. BOLDT, Trustee In Bank-)
 ruptcy Estate of CARROLL TRANSPORT)
 COMPANY (sic) In the Matter of)
 the Application of a California)
 corporation, to sell a petroleum)
 irregular route certificate, and)
 of JOHN S. CARROLL, an individual,)
 to purchase same.)

Application No. 57790
 (Filed January 10, 1978)

O P I N I O N

Ralph O. Boldt, Trustee in Bankruptcy for the Estate of Carroll Transport Co., a California corporation (seller), requests authority to sell and transfer; and John S. Carroll, an individual doing business as CARROLL TRANSPORTATION (purchaser), seeks authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier.

The certificate was granted by Decision 83337 dated August 20, 1974 in Application 54989 and authorizes the transportation of petroleum and petroleum products in tank trucks or tank trailers between all points in this State.

Seller was declared a bankrupt in the U. S. District Court, Southern District of California in Bankruptcy proceeding #77-01044-M. Mr. Ralph O. Boldt, trustee of the seller's estate, was authorized by the aforesaid court to sell the operating authority. A copy of the court's Order dated July 26, 1977 authorizing the sale is attached to the application. John S. Carroll will purchase the bankrupt's certificate and radial highway common carrier permit for a total purchase price of \$300 cash. The permit was transferred to the purchaser on December 30, 1977. No other assets are involved in the sale and transfer proposed herein.

Purchaser's balance sheet as of December 1, 1977 shows net worth of \$14,866.

Seller was a participant in various tariffs published by Western Motor Tariff Bureau, Inc., Agent, covering shipments which it transported under the certificate referred to herein. Purchaser proposes to adopt the tariffs.

A copy of the application was served upon the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of January 12, 1978. No protest to the granting of the application has been received.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that the application should be granted. 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 the Trustee in Bankruptcy for the Estate of Carroll Transport Co., a bankrupt corporation, and the issuance of a certificate, in appendix form, to John S. Carroll, an individual doing business as CARROLL TRANSPORTATION. The authorization granted herein shall not be construed as a finding of the value of the operating rights authorized to be transferred.

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.

O R D E R

IT IS ORDERED that:

1. Ralph O. Boldt, Trustee in Bankruptcy for the Estate of Carroll Transport Co., a California corporation, may sell and transfer the certificated operating rights referred to in the application

to John S. Carroll, an individual doing business as CARROLL TRANSPORTATION. This authority shall expire if not exercised by December 31, 1978, or within such additional time as may be authorized by the Commission.

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 petroleum irregular route carrier operations transferred to show that he has adopted or established, as his own, such 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 date of 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 John S. Carroll, an individual doing business as CARROLL TRANSPORTATION, authorizing him to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points set forth in Appendix A of this decision.

5. The certificate of public convenience and necessity granted by Decision 83337 is 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 No. 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 No. 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.

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

Dated at San Francisco, California, this 18th day of APRIL, 1978.

Robert Bateman
President

William J. Quinn

Simon L. Sturgeon

Clare J. Dedrick
Commissioner's

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

JOHN S. CARROLL
(an individual,
doing business as
Carroll Transportation)

John S. Carroll, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in bulk in tank trucks or tank trailers between all points and places in the State of California, subject to the following restriction:

RESTRICTION: Transportation of waste material under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 88732, Application 57790.