

Decision No. 89285 AUG 22 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of ROBERT E. SMITH, an individual)
d/b/a Alcal Mail Service, to) Application No. 58127
Transfer, and Alcal Delivery,) (Filed June 6, 1978)
Inc., a corporation, to acquire)
a highway common carrier certifi-))
cate and to issue stock.)

O P I N I O N

Robert E. Smith, an individual (seller), doing business as Alcal Mail Service, requests authority to transfer and Alcal Delivery, 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 and to issue capital stock.

The certificate was granted by Decision 84993 dated October 15, 1975 in Application 55483. It authorizes the transportation of general commodities between all points and places in San Francisco Territory. The certificate is registered with the Interstate Commerce Commission and the Certificate of Registration is issued under Docket No. MC-121781. Seller also operates under a radial highway common carrier permit, File No. T-102,599, which is the subject of a separate transfer application.

Seller has operated as a sole proprietorship and chooses to incorporate the business in order to receive the benefit of certain tax and other advantages that a corporate organization allows. The enterprise will remain at the same location and will be operated by the purchaser in the same manner as under the seller.

The purchaser is authorized by its Articles of Incorporation to issue only one class of no par value stock in the total amount of 10,000 shares. At present 847 shares have been issued to Robert E. Smith and Harriet A. Smith, husband and wife, as joint tenants, for which purchaser received equipment formerly owned by the seller having a net value of \$12,030.72.

Seller is a party to such Pacific Motor Tariff Bureau, Agent, tariff publications as are necessary for publication of rates and rules to cover the operations under the certificate to be transferred. Purchaser will be required to adopt the tariffs. Applicants have requested a deviation from the Commission's Rules of Practice and Procedure which require wide distribution of the application. Notice of the application was listed in the Commission's Daily Calendar of June 12, 1978. No protests to the application have been received.

After consideration the Commission finds that:

1. The proposed transfer of the certificate and operating equipment would not be adverse to the California public interest.
2. The proposed stock issue would be for a proper purpose.
3. The money, property or labor to be procured or paid for by the stock herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. 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 presently held by Robert E. Smith, an individual, and the issuance of a certificate in appendix form to Alcal Delivery, Inc., a California corporation. The new certificate issued to Alcal Delivery, Inc. will not broaden or change the interstate or foreign commerce rights held by the carrier.

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 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 capital stock of Alcal Delivery, Inc.

O R D E R

IT IS ORDERED that:

1. Robert E. Smith, an individual, doing business as Alcal Mail Service, may sell and transfer the operating rights and equipment referred to in the application to Alcal Delivery, Inc., a California corporation. This authorization shall expire if not exercised by January 31, 1979.

2. Within thirty days after the transfer the purchaser 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. 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.

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

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convenience and necessity is granted to Alcal Delivery, Inc., 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 Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 84993 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 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 purchaser 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.

10. Alcal Delivery, Inc., on or after the effective date hereof and on or before January 31, 1979, for the purposes specified in this proceeding, may issue not exceeding a total of 847 shares of its no par value capital stock at a total price of \$12,030.72.

11. Alcal Delivery, 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.

12. The authority granted by this order to issue stock will become effective when Alcal Delivery, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 22nd day of AUGUST, 1978.

Robert Bohman
President
William Synovitz
Yveson L. Sturgeon

Commissioners



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

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

Alcal Delivery, Inc., 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 as follows:

- I. Between all points and places in and within ten statute miles of the boundaries of San Francisco Territory as described in Note A hereof.

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. 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.
3. 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.

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4. 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.
5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle.
8. Logs.
9. Articles of extraordinary value.
10. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.
11. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
12. Explosives subject to U. S. Department of Transportation Regulations governing the Transportation of Hazardous Materials.

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.

NOTE A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point

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one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

(END OF APPENDIX A)

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