

SEP 6 1978

Decision No. 89364

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of )

ANGELO BOLLA, doing business )  
as BOLLA FREIGHT LINES )

To sell and transfer operating )  
rights and assets to )

Application No. 58124  
(Filed June 7, 1978)

BOLLA FREIGHT LINES, INC. )  
a California Corporation )

And for )

BOLLA FREIGHT LINES, INC. )

To issue stock. )

O P I N I O N

By this application, Angelo Bolla, doing business as Bolla Freight Lines (Bolla), seeks authority to sell and transfer his highway common carrier certificate of public convenience and necessity as well as all of his company's assets to Bolla Freight Lines, Inc., a California corporation, which seeks authority to issue 500 shares of its no par value capital stock in exchange for such assets.

Bolla presently operates as a highway common carrier of general commodities, with certain specified exclusions, generally between San Rafael and Sacramento, on the north, and Carmel Valley, Salinas, Los Banos and Merced, on the south, pursuant to the afore-said certificate which was granted to him by Decision 84369, dated April 29, 1975, in Application 54682. This certificated authority is registered with the Interstate Commerce Commission in its Docket No. MC-99980 (Sub No. 3) thereby authorizing him to operate in interstate and foreign commerce within the limits of his California certificate. Bolla also holds radial highway common carrier

and highway contract carrier permits issued to him by this Commission in File T-100,250. These permits, which Bolla also desires to have transferred to the new corporation, require a separate permit application to this Commission seeking such transfer authority.

By Decision 86580 of November 2, 1976 in Application 56746, the Commission granted the parties involved herein identical transfer authority sought in this proceeding. However, the transfer, though authorized by Decision 86580, supra, was never consummated by the parties and, thus, the certificate conditionally issued to the corporation never became effective. Recently, Bolla, acting through his attorney, requested that the prior transfer application be dismissed. Accordingly, the Commission issued its Decision 88982, dated June 27, 1978 which dismissed Application 56746.

Bolla Freight Lines, Inc. is a newly-formed California corporation which was incorporated on February 22, 1978. The corporation was formed specifically for the purpose of being the successor in interest to the transportation business currently being conducted by Bolla.

According to the verified application, the corporation proposes to acquire from Bolla his certificated and permitted carrier operating authorities, together with all of his company's other assets, in exchange for the corporation issuing 500 shares of its no par value capital stock, having a total stated value of \$5,000, to Bolla. In addition, the corporation would assume all of the liabilities of Bolla's business effective as of May 31, 1978. The liabilities, which are proposed to be assumed by the corporation, include an unsecured note payable with a balance due thereon in the amount of \$43,327, plus interest at 8 percent per annum, payable to Bolla, the sole shareholder, by December 31, 1979. The certificate and permits to be transferred are valued at a total of \$31,461.

By letter, the applicants have informed us that the amount of \$43,327 represents the value of the exchanged assets over liabilities in excess of \$5,000 stock value. Payment on this note is to be made out of future infusion of working capital and/or liquidity brought about by future profits. Section 818 of the Public Utilities Code requires prior authority from this Commission before the issuance of such a note and Section 1904(b) of said Code provides the fee to be charged for such authority.

Attached to the application is the corporation's pro forma financial statement as of May 31, 1978, the tentative date of transfer agreed to by both parties. The statement was prepared for the express purpose of establishing the nature and amount of Bolla's business assets and liabilities proposed to be transferred to the new corporation. It shows that, as of May 31, 1978, the corporation had assets totaling \$106,004 offset by liabilities of \$101,004, including the \$43,327 unsecured note payable to Bolla, and stockholder's equity of \$5,000 which represents the stated value of the stock to be issued to Bolla by the new corporation.

Applicants allege that the public will not be adversely affected by the proposed transfer; that no adverse competitive effect upon existing motor carriers will result therefrom; and that there will be no interruption of transportation service as a result of the transfer of operations to a corporate ownership.

If the proposed transfer is approved, Bolla Freight Lines, Inc. will adopt, amend or reissue the present published tariffs of Bolla now on file with the Commission.

Applicants request a waiver from the provisions of the Commission's Rules of Practice and Procedure which require that copies of the application be widely disseminated. A copy of the application was served by mail upon the California Trucking Association, and notice of the filing of the application appeared in the Commission's Daily Calendar of June 9, 1978. No protest to the granting of the application has been received.

After consideration, the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock and note issues are for a proper purpose.
3. The money, property or labor to be procured or paid for by the stock and note herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.
4. The waiver from its Rules of Practice and Procedure, as requested in the application, should be authorized.

On the basis of the foregoing findings, we conclude 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 Angelo Bolla and the issuance of a new certificate, in appendix form, to Bolla Freight Lines, Inc.

Bolla Freight Lines, Inc. 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 action taken herein shall not be construed as a finding of the value of the rights and properties authorized to be transferred and the stock authorized to be issued.

O R D E R

IT IS ORDERED that:

1. Angelo Bolla, an individual, may sell and transfer the highway common carrier certificate of public convenience and necessity and related assets, other than the highway carrier permits, referred to in the application to Bolla Freight Lines, Inc., a California corporation. This authorization shall expire if not exercised by March 31, 1979, or within such additional time as may be authorized by the Commission.

2. Bolla Freight Lines, Inc., on or after the effective date hereof and on or before March 31, 1979, for the purpose specified in the application, may issue not exceeding 500 shares of its no par value capital stock to Angelo Bolla at a total stated value of \$5,000; and an unsecured note payable to Angelo Bolla in the principal amount of not exceeding \$43,327, which note is described and identified in Exhibit "C" attached to the application.

3. Bolla Freight Lines, Inc. shall file with the Commission a report or reports, as required by General Order No. 24-Series.

4. Within thirty days after the transfer, Bolla Freight Lines, 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.

5. Bolla Freight Lines, Inc. 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 date of 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.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Bolla Freight Lines, Inc. authorizing 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 set forth in Appendix A of this decision.

7. The certificate of public convenience and necessity granted by Decision 84369 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

8. Bolla Freight Lines, Inc. 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.

9. Bolla Freight Lines, 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.

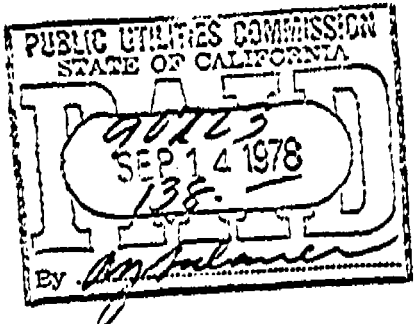
10. Bolla Freight Lines, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Bolla Freight Lines, Inc. elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. The applicants are granted a waiver from the Commission's Rules of Practice and Procedure to the extent requested in the application.

12. The authority granted by this order to issue stock and a note shall become effective when Bolla Freight Lines, Inc. has paid the fees prescribed by Sections 1904.1 and 1904(b) of the Public Utilities Code, which fees are \$50 (minimum) and \$88, respectively, or a total of \$138. In all other respects, the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 6th day of SEPTEMBER, 1978.

Robert Bateman  
President  
William Quinn-Jr  
Verward L. Sturgeon  
Charles D. Howell  
Commissioners



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

Bolla Freight Lines, Inc., a California corporation, 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:

- A. From, to and between all points located along the highways and within the territory hereinafter described:
1. The San Francisco-East Bay Cartage Zone, as described in Note A.
  2. Between San Mateo and San Jose and intermediate points on U.S. Highway 101 and State Highway 82, between Hayward and San Jose and intermediate points on State Highways 17 and 238, and between all points laterally within 5 statute miles of said highways and all points and places within a radius of 10 statute miles of San Jose.
- B. Between Half Moon Bay and points on U.S. Highway 101 between San Francisco and Menlo Park, inclusive, on the one hand, and points on or along the following routes, on the other hand:
1. U.S. Highway 101 between San Rafael and Salinas, inclusive, and points within 10 statute miles of said route.
  2. State Highway 17 between San Rafael and Santa Cruz, inclusive, and points within 10 statute miles of said route.
  3. State Highway 1 between San Francisco and Carmel, inclusive, and points within 10 statute miles of said route, including the off-route point of Carmel Valley.
  4. State Highway 9 between Los Gatos and Santa Cruz, inclusive, and points within 5 statute miles of said route.

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5. State Highway 152 between Gilroy and State Highway 1, at Watsonville, inclusive, and points within 5 statute miles of said route.
6. State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive, and points within 5 statute miles of said route.
7. State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1, inclusive, and points within 5 statute miles of said route.
8. State Highway 68 between Salinas and Monterey, inclusive, and points within 5 statute miles of said route.
9. Interstate Highway 80 between San Francisco and Carmichael, inclusive, and points within 20 statute miles of said route.
10. Interstate Highway 80, State Highways 17 and 238, Interstate Highways 580, 205 and 5, used consecutively, between San Francisco and Stockton, inclusive, and points located within 20 statute miles of said route.
11. State Highway 4 and San Pablo Avenue between Pinole and Stockton, inclusive, and points within 5 statute miles of said route.
12. State Highway 160 between its intersection with State Highway 4, near Antioch, and Sacramento, inclusive, and points within 10 statute miles of said route.
13. State Highway 24 between Oakland and Concord, inclusive, and points within 5 statute miles of said route.
14. State Highway 84 between Livermore and Redwood City, inclusive, and points within 5 statute miles of said route.
15. Interstate Highway 680 between Vallejo and its intersection with State Highway 17 near Milpitas, inclusive, and points within 10 statute miles of said route.

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16. State Highway 99 between Sacramento and Merced, inclusive, and points within 10 statute miles of said route.
  17. Interstate Highway 580 and 5 between Tracy and the intersection of Interstate Highway 5 with State Highway 152 near Los Banos, inclusive, and points within 10 statute miles of said route.
- C. Mechanical duplication and overlaps which occur in describing the operating authority granted herein shall not be construed as conferring more than one operating right to transport the same commodity between the same points.
- D. 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:

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.

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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.
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.

## 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

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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 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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