

ORIGINAL

Decision No. 89873 | JAN 16 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )	
of CHIPMAN CORPORATION, a )	
California corporation, to )	Application No. 58415
acquire a certificate of public )	(Filed October 17, 1978)
convenience and necessity from )	
FRANK'S TRUCKING, a California )	
corporation. )	

O P I N I O N

Frank's Trucking, a California corporation (seller), seeks authority to sell and transfer and Chipman Corporation, a California corporation (purchaser), seeks authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier. The certificate was granted to the seller by Decision 83347 dated August 27, 1974 in Application 54219 and amended by Decision 87181 dated April 5, 1977 in Application 56589. It authorizes the transportation of general commodities subject to certain exclusions between all points in San Francisco Territory and all points on and within ten (10) statute miles of five routes within Alameda, Contra Costa and Solano counties. It also authorizes the transportation of certain specific commodities on and within ten (10) statute miles of Interstate Highway 80 between Vallejo and Sacramento and Interstate Highway 205 between Tracy and Stockton. The certificate is the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC-99871 (Sub No. 2). Seller also operates pursuant to permits issued by this Commission under File No. T-59147. Disposition of these permits is not part of this transaction.

Purchaser proposes to purchase the highway common carrier certificate for the sum of \$25,000 of which \$12,500 is for the intra-state certificate and \$12,500 is for the interstate Certificate of

Registration. The purchase price will be paid as follows: A non-interest bearing promissory note in the amount of \$5,000 will be issued by the purchaser made payable to the seller upon execution of the purchase agreement. The note shall become due immediately and \$5,000 will be paid to the seller upon the closing of the agreement. The note is issued on the general credit status of the purchaser and there is no encumbrance of utility property involved. The balance of the purchase price in the amount of \$20,000 will be paid in equal monthly installments over a period of twenty-four (24) months with interest at the rate of 8% per annum on the unpaid balance of said purchase price from the closing date.

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

A copy of the application has been forwarded to the California Trucking Association and notice of the filing of the application appeared in the Commission's Daily Calendar of October 18, 1978. Notice of the filing of the application also appeared in the Federal Register on October 14, 1978. Applicants have requested relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. No protests to the application have been received.

After consideration, the Commission finds:

1. The proposed sale and transfer of the operating rights 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 application should be granted as set forth in the ensuing order. The order which follows

will provide for, in the event the transfer is completed, the revocation of the certificate held by Frank's Trucking, a California corporation, and the issuance of an in lieu certificate in appendix form to Chipman Corporation.

Purchaser is placed on notice that operating rights, as such, do not constitute a class of property which may be used as an element of value in rate fixing for any amount of money in excess of that 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 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 authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. Frank's Trucking, a California corporation, may sell and transfer the operative rights referred to in the application to Chipman Corporation, a California corporation. This authorization shall expire if not exercised by September 1, 1979, or within such additional time as may be granted by the Commission.
2. Within thirty days after the transfer, the 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 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 convenience and necessity is granted to Chipman Corporation, 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 83347, as amended, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules of the California Highway Patrol, and 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.

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

Dated at San Francisco, California, this 16th day of JANUARY, 1979.

Robert Bateman  
President  
Robert D. Howell  
Clair J. DeBorja

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\_\_\_\_\_  
Commissioners

Chipman 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:

I. General Commodities

- A. Between all points and places in the San Francisco Territory as described in Note A, and all points within ten (10) statute miles of any point therein.
- B. Between all points on and within ten (10) statute miles of points on the following routes:
  1. Interstate Highway 680 between its junction with unnumbered highway (Waterfront Road), near Martinez, and its junction with unnumbered highway (Washington Boulevard), near Mission San Jose, inclusive.
  2. Interstate Highway 80 between San Francisco and Vallejo, inclusive.
  3. State Highway 4 between its junction with Interstate Highway 80, near Pinole, with its junction with unnumbered highway (L Street), near Antioch, inclusive.
  4. State Highway 24 between Oakland and its junction with State Highway 4, near Buchanan Field, inclusive.
  5. Interstate Highway 580 between Oakland and its junction with Interstate Highway 205, near the Alameda-San Joaquin County Line; Interstate Highway 205 between its junction with Interstate Highway 580 and its junction with unnumbered highway (MacArthur Drive), near Tracy, inclusive.

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II. Insecticides or Fungicides, Agricultural; Iron or Steel; Iron or Steel Articles; Machinery or Machines or parts thereof; Bags, burlap, gunny, ixtle (istle), jute, sisal or paper; Can Tops, Bottoms or Ends, when moving in mixed shipments with commodities otherwise authorized to be transported under this authority; Drums, empty shipping, iron or steel; Fibreboard; Pallets; and Pulpboard;

A. Between all points on and within ten (10) statute miles of points on the following routes:

1. Interstate Highway 80, between Vallejo and Sacramento, inclusive.
2. Interstate Highway 205 between its junction with unnumbered highway (MacArthur Drive), near Tracy, and its junction with Interstate Highway 5 northeast of Tracy; Interstate Highway 5 between its junction with Interstate Highway 205 and Stockton, inclusive.

III. Service is authorized between all points and places in Parts I and II, subject to commodity limitations therein.

IV. 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).

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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.
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. Metal cans.
11. Can tops, bottoms or ends except when moving in mixed shipments with commodities otherwise authorized to be transported under this authority.
12. Plain, coated, lacquered, painted, lithographed or printed, N.O.I. tin mill black plate, tin plate, terne plate or chrome plated black plate; aluminum plate or sheet; originating at Pittsburg, California except when interlined with a water, rail or motor carrier for further transportation.

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## 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 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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