

Decision No. 90562 JUL 17 1979

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application )  
 CONSOLIDATED FREIGHTWAYS CORPO- )  
 RATION OF DELAWARE, a corpo- )  
 ration, to sell and CF TANK )  
 LINES, INC., to purchase, Cer- )  
 tificates of Public Convenience )  
 and Necessity for the trans- )  
 portation of Petroleum products )  
 in bulk, and specified com- )  
 modities between points and )  
 places in the State of Cal- )  
 ifornia pursuant to Sections 851- )  
 53 of the California Public )  
 Utilities Code. )

Application No. 53038  
(Filed November 30, 1971)

O P I N I O N

Matlack, Inc., (Purchaser), a Pennsylvania corporation, qualified to do business in California, seeks to acquire the highway common carrier and petroleum irregular route carrier certificates of public convenience and necessity of CF Tank Lines, Inc. (seller), a Delaware corporation, qualified to do business in California.

The certificates were granted to the seller by Decision 80146 dated June 13, 1972 in this proceeding. The highway common carrier certificate authorizes the transportation of petroleum products in bulk, in tank vehicles, except liquefied petroleum gases and any other petroleum products requiring pressurized tanks, and except liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks. Service is authorized over a number of routes and all points within fifty statute miles of such routes in an area extending from the California-Oregon State Line to the California-Mexico Border. The petroleum irregular route certificate authorizes the transportation of liquefied petroleum gases and any other petroleum products requiring pressurized tanks, and liquid asphalt and hot road oils requiring insulated tanks, between all

points and places in the State of California, and all other petroleum products in tank trucks and tank trailers between all points in the State of California other than the points and places authorized in the highway common carrier certificate. Seller also holds a certificate of public convenience and necessity issued by the Interstate Commerce Commission in Docket No. MC 136166 and highway carrier permits issued by this Commission. The permits are the subject of a separate application.

Purchaser presently holds permitted authority from this Commission which includes a petroleum contract carrier permit. Purchaser will be required to divest itself of such authority prior to the effective date of the order herein.

As evidenced by the Contract of Sale filed as Appendix III of the application, purchase price of Seller's stock was largely based on Seller's net worth which was computed at \$2,369,410 as of September 30, 1978. This figure included \$268,685 which was assigned to "franchises permits, patents and goodwill." Further breakdown of this figure to the amount assigned as the value of the California certificate was not set forth specifically in the Contract of Sale or on the Balance Sheet filed as Appendix V of the application. Applicant's attorney has, however, indicated that such amount would be substantially less than \$10,000.

The proposed transfer is subject to the exclusive jurisdiction of the Interstate Commerce Commission pursuant to Section 5 of the Interstate Commerce Act. The federal commission granted its approval for the transfer by its Decision MC-F-11874 served on December 5, 1978.

After consideration the Commission finds that:

1. The proposed transfer of the certificates granted by Decision 80146 would not be adverse to the public interest of California and should be authorized.

2. We further find with certainty that there is no possibility that the activity in question may have a significant effect upon the environment.

The Commission concludes that the transfer 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 highway common carrier and petroleum irregular route carrier presently held by CF Tank Lines, Inc., and the issuance of certificates in appendix form to Matlack, Inc., a Pennsylvania corporation.

The restatement of the certificated operating authority will neither broaden nor lessen the scope of the intrastate rights to be transferred.

Matlack, Inc., is placed on notice that operating 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 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.

ORDER

IT IS ORDERED that:

1. CF Tank Lines, Inc. may sell and transfer the operating rights referred to in Decision 80146 dated June 13, 1972 to Matlack, Inc., a Pennsylvania corporation. This authorization shall expire if not exercised by December 1, 1979, or within such additional time as may be granted by the Commission.

2. Within thirty days after the transfer, 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 filing 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 the cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. 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, certificates of public convenience and necessity are granted to Matlack, Inc., a Pennsylvania corporation, authorizing it to operate as a highway common carrier and a petroleum irregular route carrier as defined in Sections 213 and 214 respectively of the Public Utilities Code, between the points and over the routes set forth in Appendix A attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted by Decision 80146 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. 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.

8. 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.

9. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If the purchaser elects not to transport collect on delivery shipments, it shall make appropriate tariff filings as required by the General Order.

This order shall become effective when Matlack, Inc., in addition to all the other requirements set forth in the foregoing order, has divested itself of the petroleum contract carrier permit issued to it in File T-105694.

Dated at San Francisco, California this 17th day of JULY, 1979.

John E. Bryan  
President  
Richard D. Cavalle  
Charles T. DeLoach  
Leonard M. Jensen  
Commissioners

Matlack, 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 petroleum products in bulk, in tank vehicles, except liquefied petroleum gases and any other petroleum products requiring pressurized tanks and except liquid asphalt and hot road oils and any other petroleum product requiring insulated tanks, as follows:

Service is authorized at all points and places located on and over the following described routes, with the right to serve all points and places located laterally within a radius of 50 miles of said routes:

1. Between the California-Oregon State Line and the California-Mexico Border Line;
  - a. From the California-Oregon State Line, over U.S. Highway 101 to junction Interstate Highway 5 near Boyle Heights in the City of Los Angeles, thence over Interstate Highway 5 to the California-Mexico Border Line, and return over the same routes.
  - b. From the California-Oregon State Line, over Interstate Highway 5 to Sacramento (also over Interstate Highway 5 to Red Bluff, thence over State Highway 99 to Sacramento), thence over U.S. Highway 50 to Stockton, thence over State Highway 99 to Wheeler Ridge, thence over Interstate Highway 5 to the California-Mexico Border Line.
2. Between Redding and Alturas, over State Highway 299.
3. U.S. Highway 395 between the California-Oregon State Line and the California-Nevada State Line, via Alturas and Johnstonville.
4. State Highway 36 between junction State Highway 99 near Red Bluff and junction U.S. Highway 395 at Johnstonville.

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5. State Highway 20 between Marysville and junction Interstate Highway 80.
6. Interstate Highway 80 between San Francisco and California-Nevada State Line.
7. U.S. Highway 50 between Sacramento and California-Nevada State Line.
8. U.S. Highway 395 between California-Nevada State Line at Topaz Lake and junction Interstate Highway 15.
9. Between Los Angeles and Needles over State Highway 66 and Interstate Highway 15 to Barstow, thence over Interstate Highway 40 to Needles.
10. Between Los Angeles and the California-Arizona State Line over State Highway 60 to Beaumont, thence over Interstate Highway 10.
11. Between Barstow and the California-Nevada State Line over Interstate Highway 15.
12. State Highway 127 between Baker and California-Nevada State Line.
13. Interstate Highway 8 between San Diego and California-Arizona State Line.

## RESTRICTION:

Transportation of waste materials 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.

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Matlack, Inc., a Pennsylvania corporation, 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 (a) liquefied petroleum gases and any other petroleum products requiring pressurized tanks and liquid asphalt and hot road oils requiring insulated tanks, between all points and places within the State of California, and (b) all other petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California, except the points and places authorized in Appendix A of the decision noted in the margin.

## RESTRICTION:

Transportation of waste materials 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 B)

Issued by California Public Utilities Commission.

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