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Decision No. 90964 OCT 23 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of)
 G. A. HUTCHINSON & SON DRAYING,)
 a California corporation,)
 JOHN M. ENGLAND, Trustee in)
 Bankruptcy, for authority to trans-)
 fer its certificate to operate)
 as a highway common carrier to)
 RICHARD DELGADO, doing business)
 as DISPATCH TRANSPORTATION.)

Application No. 57852
 (Filed February 7, 1978)

O P I N I O N

G. A. Hutchinson & Son Draying, a California corporation, by John M. England, Trustee in Bankruptcy, (seller), requests authority to sell and transfer and Richard Delgado, an individual, doing business as Dispatch Transportation, (purchaser), seeks authority to purchase and acquire two certificates of public convenience and necessity authorizing operations as a highway common carrier.

The certificates were granted by Decision 51023 dated January 25, 1955 in Application 35174 and Decision 58571 dated June 8, 1959, in Application 40584, and acquired by the seller pursuant to Decision 70188 dated January 1, 1966 in Application 48127. They authorize the transportation of general commodities between points in the San Francisco-East Bay Cartage Zone and the transportation of specified commodities from San Francisco to points on U.S. Highway 101 and State Highways 82, 238 and 17.

Said certificates were registered with the Interstate Commerce Commission (ICC) and a certificate of Registration was issued under Docket No. MC 99304 (Sub. No. 2). This certificate of Registration was subsequently revoked by the ICC for cause.

Seller was declared a bankrupt by the United States District Court, Northern District of California, in October 8, 1976 in Bankruptcy No. 3-76-1097. John M. England was appointed Trustee, and caused to be offered at trustee's sale of June 21, 1977, the aforementioned highway common carrier certificates. Purchaser was the high bidder for the certificates for the sum of \$1,050.00. On June 21, 1977, the bankruptcy court accepted the purchaser's bid and issued an order approving trustee's sale of the property. A copy of said order is filed as Exhibit B of the application.

Purchaser's balance sheet shows a net worth of \$77,064.88 as of November 31, 1977. He does business as a sole proprietorship and holds highway carrier permits issued by this Commission under File T-116,526.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. A copy of the application was mailed to the California Trucking Association and notice of filing appeared in the Commission's Daily Calendar of February 8, 1978. No protests to the application have been received.

After consideration the Commission finds:

1. The proposed transfer would not be adverse to the California public interest and should be authorized.
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. 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 certificates presently held by G. A. Hutchinson & Son Draying, a California corporation, and the issuance of a certificate in appendix form to Richard Delgado, an individual, doing business as Dispatch Transportation.

Purchaser 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 as consideration for the grant of such rights. Aside from their purely permissive aspects, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly may be modified or cancelled 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 authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. G. A. Hutchinson & Son Draying, a California corporation, by John M. England, Trustee in Bankruptcy, may sell and transfer the operating rights referred to in the application to Richard Delgado, an individual, doing business as Dispatch Transportation. This authority shall expire if not exercised by December 31, 1979 or within such additional time as may be authorized by the Commission.
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 file tariffs with the Commission naming rates and rules governing the operation transferred. 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 the 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 Richard Delgado, an individual, doing business as Dispatch Transportation, authorizing him 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, attached hereto and made a part hereof.

5. The certificates of public convenience and necessity granted by Decisions 51023 and 58571, and acquired by the seller pursuant to Decision 70188, are 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.

The effective date of this order shall be thirty (30) days after the date hereof.

Dated OCT 23 1979, at San Francisco, California.

President

Commissioner JOHN E. BRYSON

Present but not participating.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Robert D. Howell

Robert T. ...

...
Commissioners

Richard Delgado, an individual, 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 in the San Francisco-East Bay Cartage Zone 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, briefcases, 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. 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.
3. 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.

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

RICHARD DELGADO
(an individual)
doing business as
DISPATCH TRANSPORTATION

II. From San Francisco on the one hand to all points and places on the following highways between and including the cities named, on the other hand:

- a. Between San Mateo and San Jose via U.S. Highway 101.
- b. Between San Mateo and San Jose via State Highway 82.
- c. Between Hayward and San Jose via State Highway 238 to its junction with State Highway 17 near Warm Springs; thence via State Highway 17.
- d. Between San Lorenzo and San Jose via State Highway 17.

for the transportation of the following commodities:

1. ELECTRICAL APPLIANCES OR EQUIPMENT, OR PARTS NAMED, as listed under that heading in Items Nos. 34020 through 35430 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
2. PAPER, as listed under that heading in Items Nos. 75260 through 75871 of Western Classification No. 76, J.P. Hackler, Tariff Publishing Officer, on the issue date thereof.
3. PAPER ARTICLES, as listed under that heading in Items Nos. 75890 through 76980 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
4. SCALES, as described in Items Nos. 65430 through 65531 of Western Classification No. 76, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof.
5. MISCELLANEOUS COMMODITIES, viz.:
 - Bottles, glass
 - Boxes, lunch
 - Clocks

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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 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

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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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