

Decision No. 91398 MAR 4 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

RICHARD A. FLETCHER, an individual,)
to control D.E. XPRESS, INC., a)
corporation and a highway common)
carrier.)

Application No. 59167
(Filed September 28, 1979)

O P I N I O N

By his verified application, Richard A. Fletcher, an individual (Fletcher), seeks authority under Section 854 of the Public Utilities Code to control D.E. Xpress, Inc., a California corporation (DEX).

DEX is currently authorized to operate as a highway common carrier transporting general commodities, with specified exceptions, between numerous points and via thirty (30) specified routes, all principally located in Los Angeles County, as well as in parts of Orange, Riverside and San Bernardino Counties. This certificated authority was originally granted by Decision 48038 dated December 9, 1952 in Application 31630; amended by Decision 74082 dated May 7, 1968 in Application 48547; and acquired by DEX from Satellite Trucking Company (formerly Atlantic Transfer Company) in a transfer proceeding granted by Decision 88212 dated December 6, 1977 in Application 57508. DEX also operates in interstate and foreign commerce under a certificate as well as a coextensive certificate of registration issued to it by the Interstate Commerce Commission in Dockets MC-35839 and MC-35839 (Sub No. 2), respectively.

According to the application, Dan J. Engilman is now the owner of all of the corporation's issued and outstanding common capital stock consisting of 50,000 shares. Pursuant to the "Agreement for Purchase and Sale of Stock" (Exhibit "A" of the application),

Engilman proposes to sell to Fletcher all of said shares of stock for the sum of \$53,755.16. Terms of payment, all in cash, for the sale and transfer of said stock are as follows: \$30,000 on the consummation date of the stock transaction; plus payments of \$10,000 within 30 days, \$10,000 within 60 days, and a final payment of \$3,755.16 within 90 days following the consummation date involved.

Applicant Fletcher declares that he has been engaged in California highway common carrier operations, in a management capacity, since 1966. He further declares that, since he is thoroughly experienced in the management and the operations of such a trucking service, he is well qualified to assume the control and management of DEX so as to provide adequate and responsive highway carrier service to the public.

Attached to the application as Appendix "B" is the Balance Sheet of applicant as of June 30, 1979. It indicates that Fletcher has a net worth of \$884,791, including \$39,000 in cash in the bank. It is readily apparent that he is financially qualified to purchase all of the stock of DEX and thereby assume control of and manage the corporation.

In addition to seeking authority to control DEX, applicant also seeks a 180-day extension of time in which to comply with the Commission's order, specifically Ordering Paragraph 8, in Decision 88212, supra. That paragraph directed DEX to submit to this Commission an in-lieu certificate which would update and restate its highway common carrier certificate authority so that it will conform to the Commission's current description of the Los Angeles Basin Territory. The substitution of that territorial description for the complex and obsolete geographical description now shown in DEX's certificate authority would serve to simplify and more accurately define the scope of DEX's operating authority to the benefit of the shipping public.

Fletcher alleges that, due to difficulties the corporation has encountered in its filing for a coextensive Certificate of Registration of its intrastate certificate with the Interstate Commerce Commission, the corporation has been unable to meet the deadline specified in Decision 88212, supra, for submission of its in-lieu intrastate certificate to this Commission.

The application shows that a copy thereof was mailed to both the northern and southern California offices of the California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of October 1, 1979. No protest to the application has been received. Applicant requests that the application be granted by ex parte order of the Commission.

After consideration, the Commission finds that:

1. Control of D.E. Xpress, Inc. by Richard A. Fletcher would not be adverse to the public interest.
2. Applicant's request for a 180-day extension of time, during which D.E. Xpress, Inc. may submit an in-lieu certificate updating and restating its highway common carrier operating authority, is reasonable.

The Commission concludes that the acquisition of control of D.E. Xpress, Inc. by Richard A. Fletcher, and the extension of time to file the in-lieu certificate required by Decision 88212 as requested in the application, should be authorized. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the capital stock of D.E. Xpress, Inc.

The Commission also concludes that the effective date of this order should be the date on which it is signed since there is no known opposition and no reason to delay the authority requested.

O R D E R

IT IS ORDERED that:

1. Richard A. Fletcher may control D.E. Xpress, Inc., a California corporation.

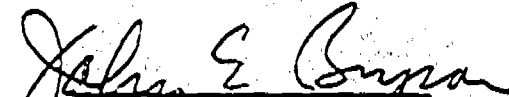
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2. Within ninety days after the effective date hereof, Richard A. Fletcher and D.E. Xpress, Inc. shall file reports informing the Commission whether or not the change in control authorized herein has been completed.

3. The requirement in Ordering Paragraph 8 of Decision 88212, supra, directing D.E. Xpress, Inc. to submit to this Commission a proposed in-lieu certificate restating its highway common carrier authority in terms of the Commission's current Los Angeles Basin Territory description, is hereby extended for a period of one hundred and eighty (180) days after the consummation of the stock control transaction authorized herein.

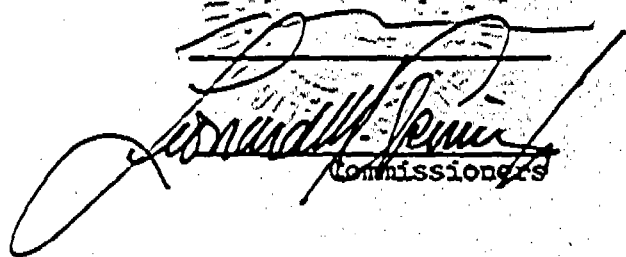
The effective date of this order is the date hereof.

Dated MAR 4 1980, at San Francisco, California.


President






Commissioners

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