

ORIGINAL

Decision No. 92142 · AUG 19 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Transferee 9-WAY LEASING, INC., a California corporation for the acquisition by transfer of Public Utility Rights currently owned by Transferor, PACIFIC PORTS TRANSPORTATION, INC., a California corporation under §851-54 of the Public Utilities Code.

Application No. 59610
(Filed April 9, 1980)

O P I N I O N

Pacific Ports Transportation, Inc. (transferor), a California corporation, requests authority to transfer and 9-Way Leasing, Inc. (transferee), a California corporation, seeks authority to acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier. The certificate was originally granted by Decision No. 54300, dated December 18, 1956 in Application No. 35956 and ultimately acquired by the transferor by Decision No. 88639 issued on March 21, 1978 in Application No. 57615. Transferor is currently authorized to transport general commodities with the usual exceptions between points within the Los Angeles Basin Region. The certificate is registered with the Interstate Commerce Commission in Docket No. MC99991 (Sub. No. 1).

Transfer of the above-referenced certificate of public convenience and necessity is sought to discharge an indebtedness owed to transferee by transferor in the amount of \$80,744.19 as of February 5, 1980. This indebtedness is comprised of loans

made to transferor by transferee in addition to services rendered to transferor by transferee in the amount stated above. Transferor has expressed an inability to meet its debt obligations to transferee and has therefore agreed to the transfer of the above-enumerated operating authorities. The agreed purchase price for the acquisition of the certificate will be the discharge by transferee of the \$80,744.19 indebtedness.

The application alleges that there is no possibility that the activity to be performed by transferee pursuant to the subject operating authority will have any significant effect on the environment. There will be no increase in motor freight activity as a result of the transfer of these rights.

After consideration, the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be granted. The application was duly noticed on the Commission's Daily Calendar for April 24, 1980. In the absence of protest, 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 transferor and the issuance of a new certificate in appendix form to transferee.

Transferee 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.

O R D E R

IT IS ORDERED that:

1. Pacific Ports Transportation, Inc. (transferor) may transfer the operative rights referred to in the application to 9-Way Leasing, Inc. (transferee). This authorization shall expire if not exercised by December 1, 1980, or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer, the transferee 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. Transferee 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 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.

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 9-Way Leasing, Inc., 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 of this decision.

5. The certificate of public convenience and necessity granted by Decision No. 88639 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Transferee 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.

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

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

Dated AUG 19 1980, at San Francisco, California.

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Bayson
President

Charles J. DeWitt
Arnold J. King
Commissioners

9-Way Leasing, 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 general commodities as follows:

- I. Between all points and places in the Los Angeles Basin Region 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. 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.

Issued by California Public Utilities Commission.

Decision 92142, Application 59610.

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.

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.

Issued by California Public Utilities Commission.

Decision 92142, Application 59610.

NOTE A

LOS ANGELES BASIN REGION

Los Angeles Basin Region includes all points and places within the following boundary: Beginning at the intersection of the westerly boundary of the City of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said City to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County Line, thence in a southerly and westerly direction along said County boundary to a point thereon distant 5 statute miles east of the intersection of said county boundary and State Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 statute miles from State Highway 91, State Highway 55, Interstate Highway 5, State Highway 133 (Laguna Canyon Road), and the prolongation thereof to the Pacific Ocean, thence along the coastline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 92142, Application 59610.