

ORIGINAL

Decision No. 92472 DEC 2 - 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DURAFLEAME, INC., to transfer its highway common carrier certificate and ALDIV TRANSPORTATION, INC., a California corporation, to acquire said certificate (Public Utilities Code 851 and 1063.5).

Application No. 59868
(Filed August 11, 1980)

O P I N I O N

By this application Duraflame, Inc. (Duraflame) seeks authority to transfer its highway common carrier certificate to Aldiv Transportation, Inc. (Aldiv). Both entities are subsidiaries of the Clorox Company, a California corporation, which holds a 100 percent stock interest in each corporation. Duraflame possesses a common carrier certificate by virtue of Section 1063.5 of the Public Utilities Code (Code) contained in File No. T-123,796 for the transportation of general commodities within the State of California.

The application was duly noticed and published in the Commission's Daily Calendar of August 12, 1980. No protests have been received.

Findings of Fact

1. A public hearing is not necessary.
2. The Clorox Company holds 100 percent stock interest in Aldiv and also holds 100 percent stock interest in Duraflame.
3. Resolution No. 18049 dated July 31, 1979 allows the transfer of Section 1063.5 certificates intact without regard to exercise of the authority, including subhauling, where the transferor, as transferee, will hold the majority beneficial interest in the certificate.

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4. It can be seen with certainty that there is no possibility that the approval of the transfer may have a significant effect on the environment.

5. The transfer will not be adverse to the public interest and should be authorized.

Conclusion of Law

The Clorox Company meets the requirements of Resolution No. 18049 wherein the transferor, as transferee, will hold the majority beneficial interest in the certificate.

Aldiv 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. Duraflame, Inc. may sell and transfer the operative rights referred to in the application to Aldiv Transportation, Inc. This authorization shall expire if not exercised by March 3, 1981, 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 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. 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, the certificate of public convenience and necessity referred to in paragraph 1 hereof is transferred to Aldiv Transportation, Inc., a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code.

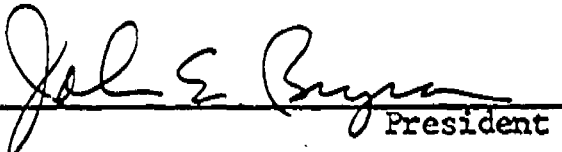
6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

7. 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.

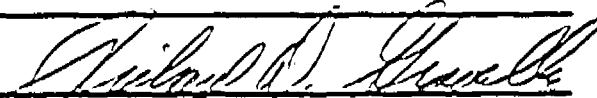
8. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

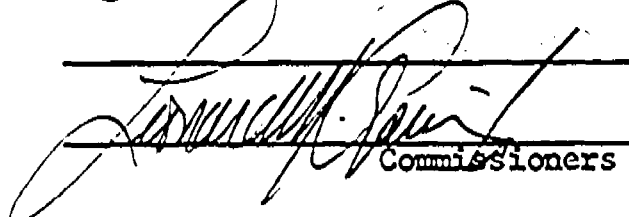
The effective date of this order shall be thirty days after the date hereof.

Dated DEC 2-1980, at San Francisco, California.



President





Commissioners

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

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