

Decision No. 92730 FEB 18 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EVERETT REDFEARN )  
dba REDFEARN TRUCKING to transfer )  
his Highway Common Carrier Certifi- )  
cate and REDFEARN TRUCKING, INC., a )  
California Corporation, to acquire )  
said Certificate (Public Utilities )  
Code 851 and 1064.5.) }

Application No. 60004  
(Filed October 15, 1980;  
amended December 16, 1980)

O P I N I O N

Everett Redfearn, (Transferor), an individual, doing business as Redfearn Trucking, has applied to transfer a highway common carrier certificate to Redfearn Trucking, Inc., (transferee), a California corporation. Transferee's Articles of Incorporation were filed with the Secretary of State, State of California on September 2, 1980. A copy of the articles is attached to the application as Exhibit B. Transferor is Chairman of the Board and holds 60% of the outstanding capital stock of the Transferee. No consideration will be paid for the transfer of the authority. There is continuity of ownership in accordance with the provisions of Resolution 18049 adopted by the Commission on July 31, 1979.

The provisions of Section 1064.5 of the Public Utilities Code do not preclude the proposed transfer.

Transferee is the successor in interest to the transferor who held a radial highway common carrier permit under File No. T-44,491. It was converted to a highway common carrier certificate pursuant to Section 1063.5 of the Public Utilities Code in Application No. GC 73 effective April 30, 1980. The certificate authorizes the

transportation of general commodities, with certain exceptions, between all points in the State of California. Transferor also holds a highway contract carrier permit issued as a result of the conversion, and Agricultural and Heavy-Specialized Carrier permits. These permits will be transferred by a separate application and are not part of this transaction.

Transferor has adopted the Commission's Transition Tariff Number 2. Transferee will file a notice adopting said tariff. Transferee is not a party to any through rates. Its proforma balance sheet is attached as Exhibit C to the application and indicates a net worth of \$282,684.

Transferee has requested that the requirements for service of the application under Rule 21(f) of the Commission's Rules of Practice and Procedure be waived since the transfer concerns an existing certificate and there will be no adverse effect on other carriers. A copy of the application was mailed to the California Trucking Association at its Burlingame office. Notice of the filing of the application and the amendment appeared in the Commission's Daily Calendar of October 20, 1980 and December 22, 1980, respectively. No protests have been received.

Findings of Fact

1. The proposed transfer would not be adverse to the public interest.
2. The order herein complies with the guidelines set forth in the Commission's energy efficiency plan.

3. A public hearing is not necessary.

Conclusion of Law

The proposed transfer should be authorized.

Redfearn Trucking, Inc. 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 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. Everett Redfearn, doing business as Redfearn Trucking, may sell and transfer the operative rights referred to in the application to Redfearn Trucking, Inc. This authorization shall expire if not exercised by April 31, 1981 or within such additional time as may be authorized by the Commission.

2. Within thirty days after the transfer, the transferee shall file 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 adoption notice 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 adoption notice filing

made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of adoption notices 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 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 adoption notice filing required by paragraph 3 hereof, the certificate of public convenience and necessity referred to in paragraph 1 hereof is transferred to Redfearn Trucking, Inc., a corporation, authorizing it to operate as a highway common carrier as defined in Section 213 of the Public Utilities Code.

5. Transferee is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

6. 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 the 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.

7. 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 an appropriate filing modifying the adoption notice as required by the General Order.

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

Dated FEB 18 1981, at San Francisco, California.

John E. Guyon  
President  
Richard W. Moore  
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Richard W. Moore  
Richard W. Moore  
Commissioners