

ORIGINAL

Decision No. 92946 APR 21 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of James S. Smith, dba)
S & W Logging and Trucking to)
transfer his highway common carrier)
certificate and James S. Smith,)
Archie V. Smith, and Virgil R.)
Smith, a California partnership, to)
acquire said certificate.)
(Public Utilities Code 851 and)
1064.5))

Application No. 60142
(Filed December 12, 1980)

O P I N I O N

James S. Smith, an individual doing business as S & W Logging and Trucking, has applied to transfer a highway common carrier certificate to James S. Smith, Archie V. Smith, and Virgil R. Smith (transferees), a partnership, pursuant to Section 1063 of the Public Utilities Code. A copy of the partnership agreement is attached to the application, along with the financial statements of the transferor and transferees.

James S. Smith will hold a majority interest in the partnership. No consideration will be paid for the transfer of authority. Under Resolution 18049, where transferor will continue to hold a majority interest in the certificate after the transfer, there is a

continuity of control and the provisions of Section 1064.5 of the Public Utilities Code do not preclude the proposed transfer. It is the intention of applicants that all transportation business will be transferred to, and conducted by, the transferees.

Transferees are the successors in interest to transferor who held a radial highway common carrier permit in File No. T-126,395. It was converted to a highway common carrier certificate pursuant to Section 1063.5 of the Public Utilities Code in Application No. GC 8278, effective April 30, 1980. The certificate authorizes the transportation of general commodities statewide.

Transferees have adopted the Commission's Transition Tariff No. 2. There has been no suspension or discontinuance of service. Operations are proceeding under direction of the transferees.

The requirements of service under Commission Rule No. 21(f) should be waived, since the transfer concerns an existing certificate and there will be no adverse effect on other carriers. The filing of this application was also listed in the Commission's Daily Calendar for December 17, 1980, and no protests have been received.

Findings of Fact

1. The proposed transfer would not be adverse to the public interest.

2. A public hearing is not necessary.
3. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.

Conclusion of Law

The proposed transfer should be authorized.

O R D E R

IT IS ORDERED that:

1. James S. Smith, doing business as S. & W. Logging and Trucking, may sell and transfer the operative rights referred to in the application to James S. Smith, Arlie V. Smith, and Virgil R. Smith. This authorization shall expire if not exercised by July 1, 1981, or within such additional time as may be authorized by the Commission.
2. Within thirty days after the transfer the transferees 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. Transferees 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 they have adopted or established, as their own, the rates and rules. The adoption notice filing 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 adoption notice filing shall be concurrent with the transfer. 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 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 adoption notice filing required by paragraph 3, the certificate of public convenience and necessity referred to in paragraph 1 hereof is transferred to James S. Smith, Arlie V. Smith, and Virgil R. Smith, copartners authorizing them to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code.

5. Transferees are placed on notice that if they accept the certificate they 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. Transferees shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

7. Transferees shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of

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collect on delivery shipments. If transferees elect not to transport collect on delivery shipments, they 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 APR 21 1981, at San Francisco, California.

John E. Guyon
President
Richard M. ...
Donald ...
Walter ...
Phyllis C. ...
Commissioners