

JUL 7 1981

ORIGINAL

Decision 93278

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ELMER G. FILOMEO and BRUNO P. NARDI,
 a partnership doing business under
 the fictitious firm name of DIABLO
 TRANSPORTATION CO., to transfer to
 DANIEL P. FERRE and HENRY M. FERRE,
 a partnership doing business under
 the fictitious firm name of PIONEER
 TRUCK LINES, the Certificates of
 Public Convenience and Necessity
 issued by the Commission, and prop-
 erty pursuant to Sections 851-853
 of the California Public Utilities
 Code, and to issue Promissory Note
 under the provisions of Section 818
 of the California Public Utilities
 Code.

Application 60198
(Filed January 19, 1981)

O P I N I O N

Elmer G. Filomeo and Bruno P. Nardi, a partnership doing business as Diablo Transportation Co. (Diablo), hold a certificate as a highway common carrier issued by the Commission in Decisions (D.) 36634, 63438, 77058, and 77510. It is the subject of a Certificate of Registration issued by the Interstate Commerce Commission in Docket MC-105682 (Sub. I7). The certificate, granted under § 213 of the Public Utilities (PU) Code, authorizes Diablo to operate as a highway common carrier in the transportation of general commodities, as follows:

1. Between San Francisco, California, and Oakland, California, on the one hand, and the United States Navy Depot near Port Chicago, California, on the other hand, via the most appropriate route.
2. To interchange shipments of Class A and B explosives at Camp Parks, California, and operate over the following route: commencing at Camp Parks, thence via Interstate Highway 680, California Highway 4, and unnumbered highway to the Naval Weapons Center at Port Chicago.

It may not transport trailer coaches and campers, including integral parts and contents, when the contents are within the trailer coach or camper.

Diablo also possesses permits from the Commission authorizing it to operate as a heavy-specialized carrier, a dump truck carrier, and a highway contract carrier. This application does not pertain to these permits.

Daniel P. Ferre and Henry M. Ferre, a partnership doing business as Pioneer Truck Lines (Pioneer), seek to purchase Diablo's certificate of public convenience and necessity and to change the partnership name to Diablo Transportation Co.

Both carriers hold certificates issued under PU Code § 1063.5. If the transaction is consummated Diablo's will be canceled; Pioneer's will be operated under its new name.

Pioneer is obligated to issue a note for \$34,500 as part of the purchase price (\$62,500) for Diablo's certificate, equipment, and goodwill. It requests authority to do so under PU Code § 818.

It is alleged that Pioneer is well-qualified to participate in and operate the business with respect to intrastate motor truck transportation as a highway common carrier for the transportation of general commodities, including explosives; there will allegedly be no adverse effect upon its financial condition and there will be no change in rates or other charges now assessed to the public.

Pioneer desires to obtain the certificate which is the subject of this application so it may serve various customers which have requested it to institute service as a certificated carrier in intrastate and interstate and foreign commerce. Diablo desires to sell the certificate which is the subject of this application because it plans to terminate its carrier business.

It is also alleged that:

- a. There will be no adverse effect on the shipping public or any other carrier. The common carrier operations will be carried on by Daniel P. Ferre and Henry M. Ferre, rather than Elmer G. Filomeo and Bruno P. Nardi, under the name of Diablo Transportation Co.

- b. Pioneer is adequately financed and possesses the necessary experience and resources to carry on the activities as a common carrier heretofore carried on by Diablo.

Findings of Fact

1. The proposed transfer will not adversely affect any competitor and will provide continued service to shippers.
2. Pioneer is well-qualified and has sufficient financial resources to conduct the proposed operation.
3. The following order complies with the guidelines in the Commission's Energy Efficiency Plan.
4. The proposed security issue is for lawful purposes and the money, property, or labor to be obtained by it are required for these purposes. Proceeds from the security issue may not be charged to operating expenses or income.
5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is not adverse to the public interest and should be authorized.
2. A public hearing is not necessary.
3. This authorization is not a finding of the value of the rights and properties to be transferred.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Elmer G. Filomeo and Bruno P. Nardi may sell and transfer the operative rights specified in the application to Daniel P. Ferre and Henry M. Ferre. This authority shall expire if not exercised by December 31, 1981, or within such additional time as the Commission may authorize.

2. Purchasers shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue sellers' tariffs. The tariffs shall not be effective before the date of transfer, nor before 5 days' notice is given to the Commission.
- c. Comply with General Orders Series 80, 100, and 104, and the California Highway Patrol safety rules.
- d. File an annual report of sellers' operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Daniel P. Ferre and Henry M. Ferre, authorizing them to operate as a highway common carrier, as defined in PU Code § 213, between the points and over the routes listed in Appendix A.

4. The certificate of public convenience and necessity granted by D.36634, 63438, 77058, and 77510 is revoked on the effective date of the tariffs.

5. The § 1063.5 certificate held by Elmer G. Filomeo and Bruno P. Nardi is canceled, and the fictitious business name on the § 1063.5 certificate held by Daniel P. Ferre and Henry M. Ferre is changed from Pioneer Truck Lines to Diablo Transportation Co. on the effective date of the tariffs.

6. On or after the effective date of this order, but before December 31, 1981, for the purposes specified, purchasers may issue an evidence of indebtedness in a principal amount not exceeding \$34,500. This document shall be substantially the same as that attached to the application. Applicant shall file the reports required by General Order Series 24.

The authority granted by this order to issue an evidence of indebtedness will become effective when the issuer pays \$79, set by PU Code § 1904(b). In all other respects this order becomes effective 30 days from today.

Dated JUL 7 1981, at San Francisco, California.

Jul E. Cuyler

President

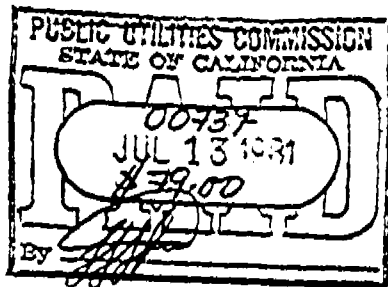
Leonard J. ...

Director

Prudence C. Grew

Commissioners

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



Appendix A DANIEL P. FERRE AND HENRY M. FERRE Original Page 1
(a co-partnership)
doing business as
DIABLO TRANSPORTATION CO.

Daniel P. Ferre and Henry M. Ferre, co-partners, by the certificate of public convenience and necessity granted in the decision noted in the margin, are 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:

1. Between San Francisco and Oakland, on the one hand, and the United States Naval Weapons Station near Concord, California, on the other hand, via the most appropriate route.
2. Carrier is authorized to interchange shipments of Class A and B explosives at Camp Parks, California and operate over the following route:

Commencing at Camp Parks, thence via Interstate Highway 680, State Highway 4 and unnumbered highway to United States Naval Weapons Station near Concord, California.

Except that pursuant to the authority herein granted, carrier shall not transport any shipments of:

1. Used household goods and personal effects, office, store, and institution furniture and fixtures.
2. Automobiles, trucks and buses, new and used.
3. Ordinary livestock.

Issued by California Public Utilities Commission.

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Appendix A DANIEL P. FERRE AND HENRY M. FERRE Original Page 2
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4. Liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquids in bulk, in any tank truck or tank trailer.
5. Mining, building, paving and construction materials, except cement or liquids, in bulk in dump truck equipment.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Portland or similar cement, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.
8. Articles of extraordinary value.
9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
10. Fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities.
11. Transportation of liquid or semi-solid waste, or any other bulk liquid commodity in any vacuum type tank truck or trailer.

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.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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