

Decision 93755

NOV 13 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EX PARTE Application of DWAYNE)
LESTER ANDERSON, to transfer and)
FRANK L. YARNELL to acquire a)
S.B. 860 Certificate T-113141,)
pursuant to Resolution 18106.)

Application 60730
(Filed July 13, 1981)

O P I N I O N

Dwayne Lester Anderson, an individual, (Seller) requests authority to sell and transfer and Frank L. Yarnell, (Purchaser) an individual seeks to purchase and acquire a highway common carrier certificate of public convenience and necessity.

The certificate was issued on April 30, 1980, under Section 1063.5 of the Public Utilities (PU) Code in Application GC 2529 and authorizes transportation of general commodities, with the usual exclusions, within and between all counties in the State of California. Seller has certified that actual operations have been conducted under the certificate in the Counties of Los Angeles, Kern, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

The application indicates that Purchaser has over 20 years' experience in the trucking industry. He does not currently hold operating authority issued by this Commission. Purchaser's balance sheet of July 1, 1981 attached to the application shows a net worth of \$54,100.

The agreement for sale and transfer covers the entire business of Seller who is relocating. Included in the transaction is the certificate, several highway vehicles, furniture, and office supplies and fixtures. Consideration from Purchaser is a total purchase price of \$42,500 of which \$17,500 will be paid in cash upon consummation of the sale. An additional \$25,000 is subject to a promissory note secured by a security agreement on all assets except the certificate. The note requires equal monthly payments including 10% interest per annum until the debt is discharged.

Seller has adopted Commission Transition Tariffs to cover operations under the certificate to be transferred. Purchaser will be required to file his own tariffs.

By letter dated September 29, 1981, Seller has requested revocation of the portion of the certificate which is not transferred.

Notice of the filing of the application appeared in the Commission's Daily Calendar of July 16, 1981. No protests have been received. Applicants indicate that the application is a matter which does not significantly affect any other party and request relief from the provisions of the Commission's Rules of Practice and Procedure which require widespread service of the application.

Findings of Fact

1. Seller holds a certificate of public convenience and necessity to operate as a highway common carrier issued under PU Code Section 1063.5 in Application GC 2529, under File T-113,141.

2. Seller conducted actual operations in good faith under the certificate within and between the Counties of Los Angeles, Kern, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura.

3. Purchaser has the experience and financial ability to conduct the proposed operations.

4. The transfer of the operating rights and other assets referred to in the application would not be adverse to the public interest.

5. The following order will have no reasonably foreseeable impact on the energy efficiency of highway carriers.

6. The proposed promissory note and security agreement are for lawful purposes and the money, property, or labor to be obtained by them is required for these purposes.

Conclusion of Law

The application should be granted as set forth in the ensuing order.

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 modify or cancel the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Dwayne Lester Anderson may sell and transfer the operative rights and other assets specified in the application to Frank L. Yarnell. This authority shall expire if not exercised by February 1, 1982, or within such additional time as the Commission may authorize.

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer.
- b. Reissue Seller's 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. Maintain accounting records in conformity with the Uniform Systems of Accounts.
- e. Comply with General Order Series 84 (collect-on-delivery shipments). If purchaser elects not to transport collect-on-delivery shipments it shall file the tariff provision required by that General Order.

3. On or after the effective date of this order, but before February 1, 1982, for the purposes specified, Frank L. Yarnell may issue evidence of indebtedness and an encumbering document in the principal amount not to exceed \$25,000. These documents shall be in substantially the same form as those attached to the application.

4. Purchaser shall file the reports required by General Order Series 24.

5. The request for relief from the Commission's Rules of Practice and Procedure is granted.

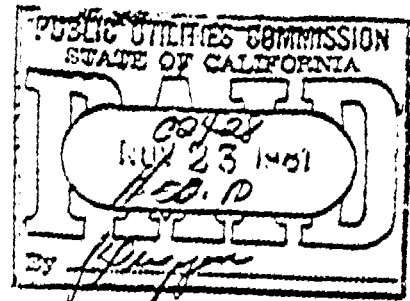
6. If the transfer is completed, on the effective date of the tariffs a certificate of public convenience and necessity is granted to Frank L. Yarnell, an individual, authorizing him to operate as a highway common carrier, as defined in Section 213 of the PU Code, between points and places within the Counties listed in Appendix A.

7. The certificate of public convenience and necessity granted to Dwayne Lester Anderson, GC 2529 is revoked on the effective date of the tariffs.

8. The authority granted by this order to issue evidence of indebtedness and security agreement will become effective when the issuer pays \$50, set by Section 1904(b) of the PU Code. In all other respects this order becomes effective 30 days from today.

Dated NOV 13 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners



I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Joseph E. Bodovitz
Joseph E. Bodovitz, Executive Director

Appendix A

FRANK L. YARNELL
(an individual)

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Frank L. Yarnell, an individual, 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:

Within and between all points in the Counties of Los Angeles, Kern, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

Except that under the authority 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.
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 cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity.

Issued by California Public Utilities Commission.
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Noncontinuity Transfer-Section 1064.5 of PU Code applies.

8. Articles of extraordinary value.
9. Trailer coaches and campers, including integral parts and contents when contents are within the trailer coach or camper.
10. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
11. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials.
12. Fresh fruits, nuts, vegetables, logs, and unprocessed agricultural commodities.
13. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads, or streets.
14. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

In performing the service authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of this service.

(END OF APPENDIX A)