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ORIGINALDecision No. 44845

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HERBERT S. HAUGHTON to sell, and)
 A. E. BAINBRIDGE to purchase, an) Application No. 31585
 automotive freight line operated)
 between Borrego Springs and San Diego,)
 California.)

O P I N I O N

Herbert S. Haughton, doing business as Haughton Transportation Co., is providing service as a highway common carrier between San Diego and Borrego Springs⁽¹⁾. In this proceeding, the Commission is requested to authorize Herbert S. Haughton to sell, and Arvil E. Bainbridge to purchase, the former's operative rights and equipment.

The consideration to be paid for the operative rights and equipment proposed to be transferred is the sum of \$3,400, of which \$2,400 represents the agreed value of the equipment, consisting of a 1948 Ford stake truck and a Freuhauf trailer, and \$1,000 is to be in payment for the operative rights. The parties have opened an escrow⁽²⁾. The instructions therein state that Arvil E. Bainbridge paid Herbert S. Haughton \$500 upon the opening of the escrow and, by letter⁽³⁾, Herbert S. Haughton advised the Commission that he is holding Arvil E. Bainbridge's check for \$1,000, leaving \$1,900

(1) Decision No. 42586, dated March 8, 1949, on Ap. No. 29876

(2) See escrow instructions and agreement attached to application.

(3) See letter dated August 30, 1950, and attachment thereto.

unpaid on the purchase price which will be evidenced by two promissory notes, dated August 29, 1950. One note, in the principal sum of \$500, is to be payable on or before 90 days from the close of escrow. The other note, in the principal sum of \$1,400, is to be payable on or before one year from the close of escrow. No interest is specified in either note ⁽⁴⁾. The equipment is to be transferred free of all encumbrances ⁽⁵⁾.

Applicant Arvil E. Bainbridge holds a radial highway common carrier permit and is presently in the trucking business. From the application, it appears that he is financially able to carry on the service now performed by applicant Herbert S. Haughton.

After full consideration, it is found as a fact that the transfer of the operative rights and equipment with which we are here concerned will not be adverse to the public interest. Accordingly, the application will be granted.

Arvil E. Bainbridge is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited to the number of rights which may be given.

(4) See copies of notes attached to letter of August 30, 1950.

(5) See statement of both applicants, dated September 7, 1950.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

Application having been made to the Commission for an order authorizing the transfer of operative rights and equipment, and the Commission having considered the matter and being of the opinion that a public hearing thereon is not necessary, and that the application should be granted as herein provided; therefore,

IT IS HEREBY ORDERED:

(1) That Herbert S. Haughton, after the effective date hereof and on or before December 31, 1950, may sell and transfer to Arvil E. Bainbridge the operative rights acquired by Herbert S. Haughton by Decision No. 42586, dated March 8, 1949, on Application No. 29870, and the 1948 Ford stake truck and Fruehauf trailer, and said Arvil E. Bainbridge may acquire and hereafter operate the same, and may issue his promissory notes in the aggregate amount of not exceeding \$1,900 in part payment thereof, it being the opinion of the Commission that the money, property or labor to be procured or paid for through such issue is reasonably required by Arvil E. Bainbridge for the purpose specified herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

(2) That, within thirty (30) days after the consummation of the transfer herein authorized, Arvil E. Bainbridge shall notify the Commission, in writing, of that fact, and shall, within said period, file with the Commission a true copy of any bill of sale which may have been or will be executed to effect said transfer, and a copy of each note as actually executed under the authority herein granted.

(3) That, within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, Arvil E. Bainbridge shall establish the service herein authorized and comply with the provisions of General Order No. 80 and 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

(4) That the authority herein granted will become effective when Arvil E. Bainbridge has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this 26th day of September, 1950.

R. E. Anderson
Justice F. Callahan
James F. Sullivan
Harold Kule
Kenneth Patten
COMMISSIONERS

