

Decision No. 25170

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CARRIE E. GINOCCHIO, doing business)
 as NEVADA CALIFORNIA TRANSPORTATION CO.,)
 to acquire, and CARRIE E. GINOCCHIO,)
 Executrix of the Estate of J. S. Ginocchio,)
 Deceased, to transfer the operating rights)
 and properties of J. S. Ginocchio, doing)
 business as Nevada California Transportation Co.)

ORIGINAL

Application No. 31982

O P I N I O N

In this proceeding Carrie E. Ginocchio seeks authority to acquire certain operative rights as a highway common carrier, some of which were held by J. S. Ginocchio, her late husband; and others, by applicant, acting in her capacity as executrix of Ginocchio's estate. J. S. Ginocchio died on January 8, 1950. Thereafter, on January 27, 1950, Carrie E. Ginocchio was duly appointed executrix of his estate by the Second Judicial District Court of the State of Nevada, in and for the County of Washoe. Thereafter, on June 16, 1950, a decree of final distribution was rendered in the probate proceeding, distributing to Carrie E. Ginocchio the property and estate of J. S. Ginocchio.

The operative rights which Carrie E. Ginocchio proposes to acquire are as follows:

- (1) A highway common carrier operation between the California-Nevada State line (on U. S. Highway No. 395, near Hallelujah Junction) and Chester, via Doyle, Milford, Johnstonville, ⁽¹⁾ Susanville and Westwood.

(1) The operation between the state line and Chester was authorized by Decision No. 20620, dated December 22, 1928, in Application No. 15237; and by Decision No. 38128 dated August 14, 1945, in Application No. 24775.

(2) A highway common carrier operation between Bird Flat
(2)
School House (on U.S. Highway No. 395) and Herlong.

(3) A highway common carrier operation,

(a) Between Chester and Hallelujah Junction, and intermediate points (including, among others, Greenville, Crescent Mills, Quincy, Portola and Vinton).

(b) Between Westwood and junction point of unnumbered highway and State Highway 89, situated east of Lake Almanor and near Big Meadows Dam.

(c) Between Johnstonville and Alturas, and intermediate points (including, among others, Standish, Litchfield, Ravendale, Termo, Madeline and Likely).

(d) To, from and between any and all points situated within a distance of one mile laterally of the routes traversed in providing the service hereinabove authorized in sub-paragraphs (a), (b) and (c).⁽³⁾

The operative rights described in paragraphs (1) and (2), above, were granted to J. S. Ginocchio, but that described in paragraph (3) was granted to Carrie E. Ginocchio, in her capacity as executrix of his estate. This operative right, it was provided, might subsequently be transferred to the appropriate distributee designated by the decree of distribution which might thereafter be rendered in the probate proceeding.⁽⁴⁾

(2) Authority to serve those points was granted by Decision No. 35200, an interim order rendered March 31, 1942 in Application No. 24775. Decision No. 38128, supra, was the final order rendered in this proceeding.

(3) This operation was authorized by Decision No. 44036 rendered April 11, 1950, in Application No. 30380. The application originally was filed by J. S. Ginocchio. However, during the pendency of that proceeding, Ginocchio died and his widow, Carrie E. Ginocchio, was substituted as the applicant therein. Pursuant to Decision No. 44036, a certificate was issued to Carrie E. Ginocchio, as executrix of the estate of J. S. Ginocchio, deceased, authorizing the operation of the service above described. That decision provided that this certificate might be transferred to the distributee or distributees designated in the decree of final distribution which might be rendered in the probate proceeding.

(4) See footnotes Nos. (2) and (3), supra.

Pursuant to an application filed with the Interstate Commerce Commission, Carrie E. Ginocchio has been authorized to acquire the interstate operative rights and properties of J. S. Ginocchio, deceased. This decision, it appears, was rendered November 8, 1950, in Docket MC-F-4642.

Applicant proposes to consummate the acquisition of these operating rights and properties on December 20, 1950, and thereafter to conduct highway common carrier operations, pursuant to such acquired rights, under the name of Nevada California Transportation Co. This date, it is alleged, has been selected for this purpose because of the desirability of having the books and records reveal a change of ownership prior to January 1, 1951; and also, because of the obligation resting on Carrie E. Ginocchio to pay the purchase price due for the acquisition of other rights and properties, not pertinent in this proceeding, relating to certain motor trucking operations conducted in the State of Nevada. Assertedly, the seller of such rights insists upon payment being effected prior to December 20, 1950. Applicant proposes to unify all of these operating rights.

Applicant, Carrie E. Ginocchio, it is stated, has available sufficient experienced personnel to continue such highway common carrier operations, under her supervision and management. For several years, her son, J. R. Ginocchio, has been associated with these operations.

The approval of the transfer sought, it appears, would not be adverse to the public interest. Accordingly, the application will be granted. This is not a matter requiring a public hearing.

Carrie E. Ginocchio, doing business as Nevada California Transportation Co., is hereby placed upon 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 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.

O R D E R

Application having been made as above entitled, the Commission having considered the matter, and being now duly advised,
IT IS ORDERED that:

(a) Applicant, Carrie E. Ginocchio, individually, is hereby authorized to acquire the operative rights as a highway common carrier, described in the foregoing opinion, pursuant to the decree of distribution rendered in the matter of the estate of her late husband, J. S. Ginocchio; and that Carrie E. Ginocchio may thereafter conduct and carry on such operations.

(b) Applicant shall comply with the provisions of General Order No. 80 and General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and timetables, within 60 days from the effective date hereof and on not less than one day's notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 19th
day of December, 1950.

R. Z. Montgomery
Justus F. Craven
Robert Powell
Harold P. Hula
Kenneth Latta
COMMISSIONERS