

Decision No. 46634

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 TESEO TESI, JOHN MAINZ, HECTOR P. )  
 PUCCINELLI and MARIO GIOVANNINI, as )  
 copartners doing business under the )  
 name of TESI DRAYAGE COMPANY, for )  
 authority to transfer and sell, and )  
 TESEO TESI, HECTOR P. PUCCINELLI, MARIO )  
 GIOVANNINI, ALDO TESI AND EUGENE )  
 GRIJALVA as copartners to do business )  
 under the name of TESI DRAYAGE COMPANY, )  
 to acquire an automotive freight line )  
 operated between Tunitas, Salada Beach )  
 and intermediate points, on the one hand, )  
 and San Francisco and Colma, on the other )  
 hand; also an automotive freight line )  
 operated between San Francisco Bay points )  
 and San Mateo points, all in the State of )  
 California )  
 ----- )

Application  
No. 32961

O P I N I O N

This application shows that Teseco Tesi, John Mainz, Hector P. Puccinelli and Mario Giovannini are partners doing business under the name of Tesi Drayage Company and that as such they are engaged in the highway common carrier business for the transportation of freight between Tunitas, Salada Beach and intermediate points, on the one hand, and San Francisco and Colma, on the other hand, and between Ano Nuevo Point, Half Moon Bay and intermediate points in San Mateo County, on the one hand, and Colma, San Francisco, Oakland, Emeryville and San Leandro, on the other hand, operating under certificates of public convenience and necessity heretofore granted by the Commission. In this application they seek authorization to sell and transfer partnership interests, as hereinafter set forth.

---

(1) The operative rights involved were acquired by purchase by Tesi, Mainz, Puccinelli and Giovannini pursuant to the authority of the Commission in Decision No. 39725, dated December 16, 1946, and Decision No. 41261, dated March 2, 1948, in Application No. 29087.

It appears that applicant Mainz desires to withdraw from the business and to sell and transfer his undivided one-fourth interest in the operative rights and equipment to the three remaining partners for the sum of \$3,500, payable \$1,000 down and \$2,500 within two years, and that thereafter said three remaining partners desire to take two additional partners into the business, namely, Aldo Tesi and Eugene Grijalva, and to continue the present operations. It appears that said Aldo Tesi proposes to purchase a one-fifth interest for the sum of \$3,500 cash, and that said Eugene Grijalva, an employee of the present partnership, has agreed to pay an additional \$3,000 out of the profits and earnings to be derived from his contribution and services to the business. Upon the completion of the transactions, the partnership will consist of five members, each owning an undivided one-fifth interest.

The agreements to carry these transactions into effect have been filed in this proceeding. The Commission is making no findings on the terms of the partnership arrangements. It appears to us that the agreement which provides for deferred payments by three of the partners is an evidence of indebtedness and in our opinion the money, property, or labor to be procured or paid for through the execution of such agreement is reasonably required for the purpose indicated. The record indicates that the proposed transactions will result in no changes in the rates being charged by the present partnership nor in the service being offered to the public, and under these circumstances we are of the opinion that the transactions will not be adverse to the public interest.

In making the order herein we wish to place applicants 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 holders 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 as to the number of rights which may be given.

O R D E R

The Commission having considered the above-entitled 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 as follows:

(1) John Mainz, after the effective date hereof and on or before June 30, 1952, may sell and transfer his partnership interest in the operative rights and equipment involved in this proceeding, to Teseo Tesi, Hector P. Puccinelli and Mario Giovannini and said Teseo Tesi, Hector P. Puccinelli and Mario Giovannini thereafter may sell and transfer partnership interests thereon to Aldo Tesi and Eugene Grijalva, such sales and transfers to be made in accordance with the terms and conditions set forth in this application and in the agreements attached thereto, which agreements applicants may execute.

(2) The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

(3) Within thirty (30) days after the consummation of the transfer herein authorized, transferees 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 or other instrument of transfer which may have been executed to effect such transfer.

(4) On not less than five (5) days' notice to the Commission and to the public, applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, appropriate tariffs and timetables.

This order will become effective when applicants have paid the minimum fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 8<sup>th</sup> day of January, 1952.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Justus F. Craemer, being necessarily absent, did not participate in the disposition of this proceeding.

