

Decision No. 47517

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOE ESPINOSA, an individual doing business under the firm name and style of ESPINOSA TRUCKING COMPANY, to lease and sell and of J. L. GROOM and/or MARION GROOM, doing business under the firm name and style of GROOM TRUCKING CO., to lease and purchase an automotive line operated between all points in California.

Application  
No. 33565

O P I N I O N

This is an application for an order of the Commission authorizing Joe Espinosa, J. L. Groom and Marion Groom to enter into a contract for the transfer of operative rights and properties.

The application shows that Joe Espinosa, doing business under the firm name of Espinosa Trucking Company, is engaged in the business of transporting lumber and logs and also in business as a petroleum irregular route carrier throughout the state under a certificate of public convenience and necessity granted by the Commission by Decision No. 44724, dated August 29, 1950. According to Exhibit C filed with the Commission, his operating revenues during 1951 from his lumber and log hauling operations amounted to \$138,579.17 and from his petroleum irregular route operations to \$33,826.83.

Applicant Espinosa now reports that he has a considerable volume of outstanding indebtedness, that he cannot continue the operations and that he has made arrangements to dispose of his petroleum irregular route operative rights and properties to J. L. Groom and Marion Groom. The contract of sale by the parties provides that the consideration to be paid is the sum of \$90,000 and

that J. L. Groom and Marion Groom in payment of this amount will agree to assume and pay outstanding notes and contracts in the aggregate amount of \$73,274.89 and unsecured obligations in the amount of \$6,714, a total of \$79,988.89, and will pay the difference between the amounts of indebtedness thus assumed and the total purchase price over a period of two years. The agreement further provides that upon final payment by the purchasers, the seller will transfer and convey to them the certificate of public convenience and necessity and the physical properties which are included in the transaction. According to information filed in this proceeding such physical property includes 23 units of revenue equipment, together with shop and office facilities.

From information on file with the Commission it appears that J. L. Groom, doing business as Groom Trucking Co., has been engaged in business as a radial highway common carrier, that during 1951 he reported gross revenues of \$264,234 with net profit of \$7,288, and that financially he is in a position to acquire the operations of Joe Espinosa and to continue to perform the services. It therefore appears that the transaction here proposed will not be adverse to the public interest.

J. L. Groom and Marion Groom are 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

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary; that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for by J. L. Groom and Marion Groom under the contract of sale is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Joe Espinosa, J. L. Groom and Marion Groom may execute and enter into a contract of sale in substantially the same form as that filed in this proceeding and pursuant to the terms of said contract Joe Espinosa may sell, assign, transfer and convey the operative rights granted by Decision No. 44724, dated August 29, 1950 to J. L. Groom and Marion Groom, together with the operative property referred to in this proceeding. J. L. Groom and Marion Groom may assume the payment of outstanding indebtedness and incur the obligation to make payments over a period of two years, all as set forth in said contract.

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

3. On not less than 5 days' notice to the Commission and to the public, applicants shall comply with the provisions of General Order No. 80 and part 14 of General Order No. 99, by

filing in triplicate, and concurrently making effective, appropriate tariffs and time tables.

4. The authority herein granted will become effective when applicants have paid the fee prescribed by Section 1904 of the Public Utilities Code.

Dated at San Francisco, California, this 28<sup>th</sup> day of July, 1952.

R. T. [Signature] President  
James J. [Signature]  
Harold H. [Signature]  
Frederick [Signature]  
[Signature] Commissioners

