

Decision No. 48577

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
W. W. MILES and PAT L. NOLET doing )  
business as MOTOR TRANSPORT SYSTEM, )  
a copartnership, and W. W. MILES and )  
PAT L. NOLET doing business as MILES )  
& SONS TRUCKING SERVICE, a copartner- )  
ship, to transfer Certificates of )  
Public Convenience and Necessity, )  
Permits, and property to MILES MOTOR )  
TRANSPORT SYSTEM, a corporation, and )  
for MILES MOTOR TRANSPORT SYSTEM, a )  
corporation, to issue stock and )  
assume certain obligations. )  
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Application  
No. 34159  
(and Amendment)

Edward M. Berol, for applicants.

O P I N I O N

In this proceeding, filed on March 16, 1953, the Commission is asked to enter its order authorizing W. W. Miles and Pat L. Nolet to transfer operative rights and properties to Miles Motor Transport System, a corporation, and authorizing said corporation to assume the payment of indebtedness and to issue \$50,000 par value of common stock.

A public hearing on the application was held before Commissioner Potter and Examiner Coleman in San Francisco on April 13, 1953. Thereafter, applicants filed an amendment in this proceeding excluding certain operative rights from the transfer and also filed Application No. 34252 for authorization to transfer such rights to Homer M. Brower and Creighton W. Brower.

W. W. Miles and Pat L. Nolet, as partners doing business as Motor Transport System, are engaged in operations as highway common carriers of general commodities between the Los Angeles territory on the south, Eureka on the north, and Sacramento on the east, serving certain intermediate points on the authorized routes and

certain lateral points off such routes. The same individuals, as partners doing business as Miles & Sons Trucking Service, are engaged in operations as highway common carriers of general commodities between the Los Angeles territory on the one hand and Sacramento on the other hand, including service to and from certain points between San Francisco and the San Joaquin Valley, and as petroleum irregular route carriers generally in the State of California. The application shows that they desire to consolidate a part of their operations into a corporation and that to this end they have caused the organization of Miles Motor Transport System to take over the transportation of general commodities, retaining for themselves, as partners, the petroleum irregular route operations.

The properties proposed to be transferred to the corporation, in this application as amended, include the operative rights acquired by the present owners under authorization granted by Decision No. 48127, covering certificates theretofore granted by Decisions No. 47105 and No. 47994, and those acquired under authorization granted by Decisions No. 45324 and No. 46796, covering certificates theretofore issued in Decisions No. 43003 and No. 40935, together with rolling equipment, shop and garage equipment, office furniture and fixtures and improvements to leased property, and current assets, deferred debits, current liabilities, notes payable, equipment and other long-term obligations, and deferred credits applicable to such properties and operations.<sup>1/</sup> The book value of the tangible properties to be transferred, according to Exhibit 1, was \$501,818.83 as of November 30, 1952, of other properties \$134,612.72, and of current assets and deferred debits \$277,624.29, a total of \$914,055.84. The

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<sup>1/</sup> Certain radial highway common carrier, highway contract carrier and city carrier permits also will be transferred to the corporation in a separate proceeding.

The transfer of operative rights to Homer M. Brower and Creighton W. Brower will be authorized by an order in Application No. 34252. These rights generally authorize the transportation of general commodities between Modesto, Pinecrest and other points.

corporation proposes, in acquiring the properties and assets, to assume the payment of outstanding indebtedness and deferred credits of \$864,055.84, including long-term obligations in the amount of \$565,390.26, and to issue capital stock of the aggregate par value of \$50,000.

The testimony indicates that the corporation, upon succeeding to the operations of the partnership, should have sufficient capital for the conduct of its operations and for the discharge of its obligations. It also appears that the separation of the operations, as here proposed, should not interfere with the remaining operations of the partnership. Upon a full review of this matter it therefore appears to us that the transfer will not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the shares of stock herein authorized is reasonably required by Miles Motor Transport System for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

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. Applicants are 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 as to the number of rights which may be given.

O R D E R

A public hearing having been held on the above entitled matter, and the Commission having considered the evidence and being of the opinion that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. W. W. Miles and Pat L. Nolet, partners doing business as Motor Transport System and as Miles & Sons Trucking Service, may transfer to Miles Motor Transport System the certificates of public convenience and necessity and the properties referred to in this application, as amended, such transfer to be made under the terms and conditions set forth therein.
2. Miles Motor Transport System, in part payment for said rights and properties, may assume the payment of outstanding long-term indebtedness in the amount of not exceeding \$565,390.26, and may issue not exceeding \$50,000 par value of its common stock.
3. Miles Motor Transport System is authorized to be substituted as a party to the joint rates and through routes now authorized for Motor Transport System and for Miles & Sons Trucking Service.
4. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, Miles Motor Transport System shall file, in triplicate, and concurrently make effective, appropriate tariffs and time tables.
5. Miles Motor Transport System shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day of May, 1953.

R. J. [Signature]  
President

Justin F. [Signature]  
Harold P. [Signature]

[Signature]  
[Signature]  
Commissioners