

ORIGINAL

Decision No. 49601

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of GARIBALDI BROS. TRUCKING CO., )  
a corporation, and GARIBALDI BROS. )  
TRUCKING CO., a co-partnership, )  
composed of D. GARIBALDI, JR., )  
J. GARIBALDI and V. GARIBALDI, to )  
sell, transfer and convey the )  
going business and certain assets )  
of said co-partnership to said )  
corporation upon a reorganization )  
of their said business, the consider- )  
ation therefor to be solely in stock )  
of the said corporation issued to the )  
partners in exact proportion to the )  
interests of each in said partnership. )  
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Application  
No. 35031

O P I N I O N

This is an application for an order of the Commission authorizing D. Garibaldi, Jr., J. Garibaldi and V. Garibaldi to transfer the Garibaldi Bros. Trucking Co. to a corporation and authorizing said corporation to issue \$300,000 par value of its common capital stock.

The application shows that D. Garibaldi, Jr., J. Garibaldi and V. Garibaldi are partners doing business as Garibaldi Bros. Trucking Co., that they are engaged, among other things, as highway common carriers of livestock generally in California, and that they now have concluded they desire to conduct their business under a corporate form of organization and have made arrangements to transfer their operations to Garibaldi Bros. Trucking Co., a corporation which they have organized for the purpose of succeeding to and continuing their business activities as highway carriers. It appears

that the partners hold a certificate of public convenience and necessity which was granted to them by Decision No. 44523, dated July 11, 1950, in Application No. 30945, as well as trucks, trailers and other assets having a book value of \$300,000, no part of which represents any amount assigned to the operative rights.

Exhibit B attached to the application indicates that upon succeeding to the business and operations of the partnership, the new corporation will have fixed and current assets in the amount of \$300,000 with no liabilities, the assets being segregated as follows:

Current assets -		
Cash in bank	\$ 75,000.00	
Prepaid rent	1,666.65	
Prepaid insurance	980.00	
Prepaid licenses	<u>4,595.00</u>	
Total current assets		\$ 82,241.65
Fixed assets -		
Trucks, trailers, cars and pickups (net book value)	\$195,155.46	
Office equipment (net book value)	5,334.08	
Inventory: Materials and supplies (net book value)	<u>17,268.81</u>	
Total fixed assets		<u>217,758.35</u>
Total assets		<u>\$300,000.00</u>

In financial statements filed with the Commission the partnership has reported its operating revenues during 1952 in the amount of \$1,619,559 and during the first six months of 1953 in the amount of \$875,446. It has reported its net income, before making provision for federal income taxes, in the amount of \$70,007 during 1952 and in the amount of \$135,426 during the first half of 1953.

The application indicates there will be no change in the management or control of the business as a result of the transfer and in our opinion the transaction, as proposed, will not be adverse to the public interest and should be authorized. In making our order 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 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.

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.

#### 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 the issue of the shares of stock herein authorized is reasonably required by applicant corporation 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. D. Garibaldi, Jr., J. Garibaldi and V. Garibaldi, doing business as Garibaldi Bros. Trucking Co., may transfer to Garibaldi Bros. Trucking Co., a corporation, the certificate of public convenience and necessity granted to them by Decision No. 44523, dated July 11, 1950, and the operative properties referred to in this application.

2. Garibaldi Bros. Trucking Co., a corporation, in payment for the certificate and the properties herein authorized to be transferred, may issue not exceeding \$300,000 par value of its common capital stock.

3. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that D. Garibaldi, Jr., J. Garibaldi and V. Garibaldi, doing business as Garibaldi Bros. Trucking Co., have withdrawn or canceled and that Garibaldi Bros. Trucking Co., a corporation, has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the filing and construction of tariffs set forth in the Commission's General Order No. 80.

4. Garibaldi Bros. Trucking Co., a corporation, 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.

5. The authority herein granted will become effective  
20 days after the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of  
January, 1954.

Kenneth Pittel  
John E. McNeil  
Gene Duggins  
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Commissioners