

ORIGINAL

Decision No. 54884

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of RAUSCH TRANSPORTATION CO., INC.,
a corporation, to sell, and EDWIN
J. BIELER and BERNERD SHAPIRO,
copartners, doing business as
JD TRANSPORTATION COMPANY, to
purchase operating rights as a
highway common carrier of
property.

Application No. 38929
and Amendment

O P I N I O N

Rausch Transportation Co., Inc., has filed this application for authorization to transfer its operative right to Edwin J. Bieler and Bernerd Shapiro, copartners doing business as JD Transportation Company.

The operative right to be transferred authorizes the operation of a highway common carrier service for the transportation of property between Los Angeles, Pasadena, South Pasadena, Lamanda Park and Oak Knoll. The Commission's records show that it was recognized as a prescriptive right by Decision No. 18766, dated September 3, 1927, and was transferred to the present owner pursuant to authorization granted by Decision No. 52822, dated March 27, 1956.

It appears that Rausch Transportation Co., Inc., desires to withdraw from its highway common carrier operations. It proposes to transfer the operative right to Edwin J. Bieler and Bernerd Shapiro for the sum of \$10,000, under the terms of an agreement

calling for a down payment of \$3,000 and for the payment of the remaining \$7,000, with interest at the rate of 6% per annum, in monthly installments of \$300 or more. Of the total price, \$1,500 has been allocated to the operative right and \$8,500 to goodwill, shippers and business. No operative equipment or other tangible assets are included in the transaction.

The application shows that the buyers, individually, have been conducting motor carrier operations in Los Angeles for approximately five years under radial, contract and city carrier permits and that they own and will devote to the highway common carrier service, three trucks, three tractors and three semi-trailers. The buyers report that they have investigated the operations and the shippers that are now being served and that they are of the opinion they will be able to retain most of the business now handled by the present owner and to meet the obligations they will incur. They have filed their financial statements for the Commission's consideration.

From the information before us it clearly appears that the buyers are in a position to finance the purchase of the business and to conduct the operations without interruption in service and we are of the opinion and so find, that the transfer will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the incurring of the long-term debt by Edwin J. Bieler and Bernerd Shapiro is reasonably required by them for the purpose of carrying out the terms of the transfer agreement and that the application should be approved by an ex parte order.

In making such an order, we are not recognizing the agreed figure of \$1,500 as the cost or value of the operative right. Applicants are placed on notice that an operative right, as such, does not constitute an item 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 right. Aside from its purely permission aspect, it extends 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

The Commission having considered the above-entitled matter and being of the opinion that it should be granted, as herein provided; therefore,

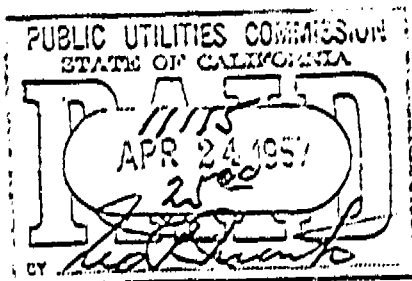
IT IS HEREBY ORDERED as follows:

1. Rausch Transportation Co., Inc., may transfer to Edwin J. Bieler and Bernard Shapiro, copartners doing business as JD Transportation Company, the operative right referred to herein under the terms and conditions of the agreement filed in this proceeding as Exhibit C.
2. Edwin J. Bieler and Bernard Shapiro may acquire such operative right and may incur the long-term indebtedness as provided in said agreement.

3. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, 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 Rausch Transportation Co., Inc., has withdrawn or canceled and Edwin J. Bieler and Bernerd Shapiro, copartners doing business as JD Transportation Company, have adopted or established, as their own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. The authority herein granted will become effective when Edwin J. Bieler and Bernerd Shapiro, copartners doing business as JD Transportation Company, 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 22nd day of April, 1957



[Handwritten Signature]
President
[Handwritten Signature]
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Commissioners