

ORIGINAL

Decision No. 54966

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of E. J. MORIARTY to transfer a Certificate of Public Convenience and Necessity to E. J. MORIARTY COMPANY, INC., a corporation, and for E. J. MORIARTY COMPANY, INC., a corporation, to issue stock.

Application No. 38972

O P I N I O N

This is an application for an order of the Commission (1) authorizing E. J. Moriarty, doing business as E. J. Moriarty Trucking Co., to transfer operative rights, business and assets to E. J. Moriarty Company, Inc., and (2) authorizing said corporation to issue 2,500 shares of its no par common stock.

The application shows that E. J. Moriarty owns a certificate of public convenience and necessity granted by the Commission by Decision No. 53577, dated August 7, 1956, in Application No. 37916, authorizing operations as a petroleum irregular route carrier in Los Angeles, Orange, Ventura and Riverside Counties, and also certain radial and city carrier permits. A statement of his assets, liabilities and capital as of December 31, 1956, prepared from Exhibit A attached to the application, is as follows:

Assets

Current assets	\$16,223	
Less - current liabilities	<u>4,135</u>	
Net working assets		\$12,038
Operative equipment - less reserve		27,071
Other assets		<u>25</u>
. Total		<u>\$39,134</u>

Liabilities and Capital

Contracts payable		\$19,648
Net worth		<u>19,486</u>
Total		<u>\$39,134</u>

It now appears that E. J. Moriarty has concluded his operations can be conducted more advantageously by means of a corporate form of organization and that he proposes to transfer his operative rights, business and assets to E. J. Moriarty Company, Inc., a new corporation which he has formed for the express purpose of taking over such rights, business and assets and of conducting the operations. The application shows that nothing is included in the asset values for the certificate of public convenience and necessity and that such certificate will be transferred to the new corporation without cost. The corporation will assume the outstanding liabilities.

It appears that there will be no change in the rates or service as a result of the transfer and that the same operative properties will be available to the corporation as now are utilized by applicant Moriarty. Upon reviewing the verified application, we are of the opinion, and so find that the transfer will not be adverse to the public interest and should be authorized.

Applicants are hereby placed on 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 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. E. J. Moriarty may transfer to E. J. Moriarty Company, Inc., the operative rights granted by the Commission by Decision No. 53577, dated August 7, 1956, and his business and assets, such transfer to be made on or before November 30, 1957.

2. E. J. Moriarty Company, Inc., in payment for such rights, business and assets, may issue not exceeding 2,500 shares of its no par common stock and assume the payment of outstanding indebtedness.

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 operations here involved to show that E. J. Moriarty has withdrawn or canceled and E. J. Moriarty Company, Inc., 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 construction and filing of tariffs set forth in the Commission's General Order No. 30.

4. E. J. Moriarty Company, Inc., shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. This order will become effective on the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of MAY, 1957.

*Paul E. Blatch*  
President  
*Paul E. Blatch*  
*P. Hardy*  
*E. L. Fox*  
Commissioners