

ORIGINAL

Decision No. 55224

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of W. W. MILES and PAT L. NOLET,
copartners doing business as
MILES & SONS TRUCKING SERVICE,
to transfer certificates of
public convenience and necessity,
permits, and property, to MILES
& SONS TRUCKING SERVICE, a
corporation, and to issue stock
and to assume certain obligations.

Application No. 39153

O P I N I O N

This is an application for an order of the Commission (1) authorizing W. W. Miles and Pat L. Nolet, doing business as Miles & Sons Trucking Service, to transfer operative rights, business and assets to Miles & Sons Trucking Service, a corporation, and (2) authorizing said corporation to assume indebtedness and to issue \$150,000 of its common stock.

The application shows that W. W. Miles and Pat L. Nolet own certificates of public convenience and necessity granted by the Commission by Decision No. 42623, dated March 15, 1949, and Decision No. 44376, dated June 20, 1950, authorizing transportation as a highway common carrier of petroleum products and as a petroleum irregular route carrier generally in California. For the year 1956, they reported revenues of \$4,900,521 and net income of \$312,821, before income taxes.

A condensed statement of the present partnership's assets, liabilities and capital as of March 31, 1957, prepared from Exhibit B attached to the application, is as follows:

Assets

Current assets	\$ 464,001
Tangible property	1,303,026
Deferred debits	<u>8,007</u>
Total	<u>\$1,775,034</u>

Liabilities and Capital

Current liabilities	\$ 556,311
Advances payable	50,000
Long-term debt	1,016,801
Partnership capital	<u>151,922</u>
Total	<u>\$1,775,034</u>

It now appears that the partners have concluded the operations can be conducted more advantageously by means of a corporate form of organization and that they propose to transfer their operative rights, business and assets to Miles & Sons Trucking Service, a new corporation which they have formed for the express purpose of taking over such rights, business and assets and of conducting the operations. The corporation, in acquiring the operative rights, business and assets, will assume the outstanding liabilities and will issue its stock at par in an amount approximately equivalent to the net book value of the assets being transferred.

It appears that there will be no change in the rates or service as the result of the transfer and that the same operative properties will be available to the corporation as now are utilized by the present operators. Upon reviewing the verified application,

we are of the opinion, and so find that the transfer under the terms as proposed, and subject to the conditions of the order herein, 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. W. W. Miles and Pat L. Nolet may transfer to Miles & Sons Trucking Service, a corporation, the operative rights granted by the Commission by Decision No. 42623, dated March 15, 1949, and Decision No. 44376, dated June 20, 1950, and their business and assets, as set forth in the application, such transfer to be made on or before December 31, 1957.

2. Miles & Sons Trucking Service, a corporation, in payment for such rights, business and assets, may issue not exceeding 150,000 shares of its capital stock of the aggregate par value of \$150,000 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 W. W. Miles and Pat L. Nolet, have withdrawn or canceled and Miles & Sons Trucking Service, 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 construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. Miles & Sons Trucking Service, a corporation, 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 9th day of JULY, 1957.

Paul L. Luterer President
Michael D. Doherty
R. H. Hart
E. L. Fox Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.