

**ORIGINAL**

Decision No. 55243

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

ATOMIC EXPRESS, a California Corporation, to acquire the transportation business including Certificate of Public Convenience and Necessity from SAM LUGASH, an individual.

Application No. 39227

O P I N I O N

This is an application for an order of the Commission (1) authorizing Sam Lugash to transfer operative rights, business and assets to Atomic Express, a corporation, and (2) authorizing said corporation to issue 500 shares of its no par common stock.

The application shows that Sam Lugash for many years has been engaged in the motor vehicle transportation business. He was certificated by Decision No. 53817, dated September 25, 1956, in Application No. 36341, as a highway common carrier of general commodities between Los Angeles, La Verne, Santa Ana, and intermediate points. For the first five months of 1957, he reported revenues of \$60,170 and net profit of \$7,653, after making provision in the amount of \$858 for depreciation.

It now appears that applicant Lugash 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, furniture, fixtures and delivery equipment at book values to Atomic Express, a new corporation which he has formed for the express purpose of taking over such rights, business and assets and of conducting the operations. <sup>1/</sup> The application shows that applicant Lugash will advance to the corporation the working cash it will need to carry on its business.

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 applicant Lugash. 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

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The book values are reported as follows:

Furniture and fixtures	\$ 3,701.17
Delivery equipment	<u>13,797.67</u>
	22,498.84
Less - depreciation reserve	<u>15,716.75</u>
Net balance	<u><u>\$ 6,782.09</u></u>

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. Sam Lugash may transfer to Atomic Express, a corporation, the operative rights granted by the Commission by Decision No. 53817, dated September 25, 1956, and his business and assets.

2. Atomic Express, a corporation, in payment for such rights, business and assets, may issue not exceeding 500 shares of its no par common stock.

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 Sam Lugash has withdrawn or canceled and Atomic Express, 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. Atomic Express, 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 5<sup>th</sup> day of August, 1957.

*John E. Mitchell*  
President  
*W. H. ...*  
*R. ...*  
*S. ...*

Commissioners