

**ORIGINAL**

Decision No. 55820

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of MANUEL SOUZA, doing business as :  
SOUZA'S MILK TRANSPORTATION, to )  
sell, and SOUZA'S MILK TRANSPORTA- :  
TION CO., a California Corporation, )  
to purchase, operating rights and :  
properties of a highway common )  
carrier, and to issue certain :  
shares of its capital stock there- )  
for. :  
----- )

Application No. 39492

O P I N I O N

This is an application for an order of the Commission (1) authorizing Manuel Souza, doing business as Souza's Milk Transportation, to transfer operative rights, business and assets to Souza's Milk Transportation Co., a corporation, and (2) authorizing said corporation to assume the payment of liabilities and to issue \$59,300 par value of capital stock.

By Decision No. 53584, dated August 7, 1956, as amended by Decision No. 54095, dated November 19, 1956, the Commission granted to Manuel Souza a certificate of public convenience and necessity authorizing him to operate as a highway common carrier principally for the transportation of dairy products, generally between Gustine and points in the San Joaquin Valley, Los Banos and points in the San Joaquin Valley and the coast, between Newman and Patterson and Stockton, and between Paso Robles and Compton and Ripon. A condensed statement of his assets, liabilities and capital at August 31, 1957, prepared from Exhibit C attached to the application, is as follows:

<u>Assets</u>	
Current assets	\$15,327
Fixed assets, less reserve	<u>74,132</u>
Total	<u>\$89,459</u>
<u>Liabilities and Capital</u>	
Current liabilities	\$ 8,680
Long-term obligations	21,500
Proprietor's capital	<u>59,279</u>
Total	<u>\$89,459</u>

For the first eight months of 1957, Manuel Souza reported gross revenues of \$111,748 and a net profit of \$16,468, after making provision in the amount of \$16,325 for depreciation.

It now appears that Manuel Souza has concluded that 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 Souza's Milk Transportation Co., a new corporation which he has formed for the express purpose of taking over such rights, business and assets and of continuing the operations. The corporation, in acquiring the operative rights, business and assets, will assume the outstanding liabilities and will issue shares of its stock having an aggregate par value approximately equal to the proprietor's investment.

A review of the application shows 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 Manuel Souza. 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.

#### ORDER

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. Manuel Souza may transfer to Souza's Milk Transportation Co., a corporation, the operative rights granted by the Commission by Decision No. 53584, dated August 7, 1956, as amended by Decision No. 54095, dated November 19, 1956, and his business and assets as set forth in this application.

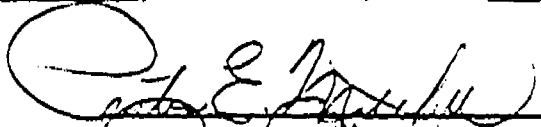

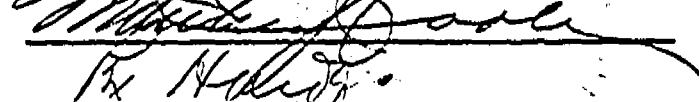
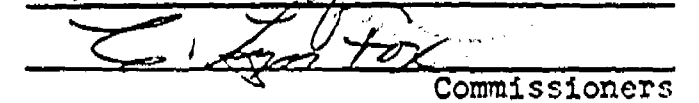
2. Souza's Milk Transportation Co., a corporation, in payment for such rights, business and assets, may issue not exceeding 593 shares of its capital stock, of the par value of \$100 each and of the aggregate par value of \$59,300, and may assume the payment of outstanding indebtedness.

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 Manuel Souza has withdrawn or cancelled and Souza's Milk Transportation 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 construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. Souza's Milk Transportation Co., 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 12<sup>th</sup> day of November, 1957.

  
\_\_\_\_\_  
President  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
Commissioners