

ORIGINAL

Decision No. 56355

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BERT F. JOHANSEN, doing business as Superior Truck Co., to transfer certificates of public convenience and necessity, permits, and property to JOHANSEN'S SUPERIOR TRUCK COMPANY, a corporation, and for said corporation to issue stock and assume certain obligations.

Application No. 39847

O P I N I O N

This is an application for an order (1) authorizing Bert F. Johansen, doing business as Superior Truck Co. to transfer operative rights, business and assets to Johansen's Superior Truck Company, a corporation, and (2) authorizing said corporation to assume indebtedness and to issue \$40,000 par value of its common stock.

Under authorization granted by Decision No. 54011, dated October 30, 1956, as amended by Decision No. 54647, dated March 12, 1957, Bert F. Johansen undertook operations as a highway common carrier of property between Los Angeles and other points generally in southern California as set forth in said decisions. In Exhibit F, he has reported his operating revenues for 1957 at \$236,451 and his net profit at \$2,011, after deducting \$18,000 for general officers' salaries and \$9,883 for depreciation. He has reported his financial condition as of the end of 1957 in his balance sheet which he has filed as Exhibit C. A condensed statement of the balance sheet is as follows:

Assets

Carrier operating property -		
Cost	\$102,019.04	
Less - depreciation reserve	<u>62,264.06</u>	
Net		\$39,754.98
Current assets -		
Cash and deposits	6,947.17	
Accounts receivable	10,420.16	
Prepayments	3,559.67	
Materials and supplies	<u>957.17</u>	
Total current assets		<u>21,884.17</u>
Total		<u>\$61,639.15</u>

Liabilities and Capital

Equipment obligations	\$15,102.00
Current liabilities	6,139.06
Capital account	<u>40,398.09</u>
Total	<u>\$61,639.15</u>

It now appears that Bert F. Johansen 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 Johansen's Superior Truck Company, 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, that the same operative properties will be available to the corporation as now are utilized by Bert F. Johansen, and that nothing is claimed

for value of the operative rights. 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. Bert F. Johansen may transfer to Johansen's Superior Truck Company, a corporation, the operative rights created by this Commission's Decision No. 54011, dated October 30, 1956, as amended by Decision No. 54647, dated March 12, 1957, and his business and assets, as set forth in the application.

2. Johansen's Superior Truck Company, a corporation, in payment for such rights, business and assets, may issue not exceeding 40,000 shares of its common stock, of the par value of \$1 each and of the aggregate par value of \$40,000, 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 Bert F. Johansen has withdrawn or canceled and Johansen's Superior Truck Company, 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. Johansen's Superior Truck Company, 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 17th
day of MARCH, 1958.

W. E. Hatch
President
Paul J. ...
Michael ...
E. Lyn Fox

Commissioners