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Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EDWIN F. NELSON and EDWIN M. TAYLOR, partners doing business as ARROYO GRANDE TRUCK CO., and GEO. K. OLIVER, doing business as GEO. K. OLIVER TRUCKING, for transfer of a certificate of public convenience and necessity to operate as a highway common carrier of specified commodities between certain points in California as granted in Decision No. 54900, dated April 22, 1957, and approval of sale of utility property.

Application No. 39853

O P I N I O N

This is an application for an order authorizing Geo. K. Oliver to transfer highway common carrier operative rights to Edwin F. Nelson and Edwin M. Taylor.

On April 22, 1957, by Decision No. 54900, the Commission authorized Geo. K. Oliver, an individual doing business as Geo. K. Oliver Trucking, to operate as a highway common carrier of property generally between San Francisco and Los Angeles and various coastal points. The present application shows that applicant Oliver is in ill health and unable to continue to devote his personal efforts to the operations of the business and that he has made arrangements to sell his certificate of public convenience and necessity and his assets, including certain real estate, buildings, vehicles, office equipment, supplies, tools, fixtures and goodwill to Edwin F. Nelson

and Edwin M. Taylor for the sum of \$60,000, no part of which has been assigned by applicants to the goodwill, franchises or certificates. Applicant Oliver reports the original cost of his tangible property at \$94,415 and the present book value at \$38,512.

Under the terms of the agreement of sale, the total purchase price is to be payable at the rate of \$500 a month, including interest on deferred balances at the rate of five per cent per annum. The unpaid balance is to be represented by a promissory note and is not to be secured.

The purchasers, Edwin F. Nelson and Edwin M. Taylor, as partners doing business as Arroyo Grande Truck Co., are the owners of a certificate of public convenience and necessity authorizing operations as a highway common carrier of certain commodities between the San Luis Obispo-Summerland territory and the San Francisco-Los Angeles territories and from the Los Angeles territory and San Francisco territory to Arroyo Grande. They report, for the seven months' period ended November 30, 1957, operating revenues of \$376,652 and net profit of \$34,494. Their financial statement shows a favorable cash position at the close of November 30, 1957, and a substantial investment of proprietary funds in the enterprise. The business to be acquired by them from applicant Oliver produced operating revenues during the first nine months of 1957 of \$118,680, with net profit of \$6,588.

Applicants assert that the two operations are conducted in the same territory and that combining them would permit the purchasers to provide better service to the shippers. From a review of the application, we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest, that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by the purchasers for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

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 authorization herein granted shall not be construed to be a finding of the value of the operative rights and assets 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, and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Geo. K. Oliver, doing business as Geo. K. Oliver Trucking, may transfer to Edwin F. Nelson and Edwin M. Taylor, partners doing business as Arroyo Grande Truck Co., the certificate of public convenience and necessity and the other assets referred to in this application, such transfer to be made under the terms indicated in the preceding opinion.

2. Edwin F. Nelson and Edwin M. Taylor, partners doing business as Arroyo Grande Truck Co., in payment for said operative rights and assets, may issue an unsecured promissory note in the principal amount of not exceeding \$60,000.

3. Edwin F. Nelson and Edwin M. Taylor, partners doing business as Arroyo Grande Truck Co., 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.

4. 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 common carrier operations here involved to show that Geo. K. Oliver, doing business as Geo. K. Oliver Trucking, has withdrawn or canceled and Edwin F. Nelson and Edwin M. Taylor, partners doing business as Arroyo Grande Truck Co., have adopted or established, as their 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.

5. The authority herein granted will become effective when Edwin F. Nelson and Edwin M. Taylor, partners doing business as Arroyo Grande Truck Co., have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$60.

Dated at San Francisco, California, this 1st day of April, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

