

ORIGINAL

Decision No. 57715

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GARDEN CITY TRANSPORTATION CO., LTD.,
a corporation, to sell and transfer,
and SAVAGE TRANSPORTATION CO., INC.,
a corporation, to purchase, operative
rights.

Application No. 40035

O P I N I O N

This is an application for an order of the Commission authorizing Garden City Transportation Co., Ltd., to sell and transfer operative rights to Savage Transportation Co., Inc.

Garden City Transportation Co., Ltd., for many years, operated as a highway common carrier of property generally between Bradley, Monterey, Santa Cruz, San Francisco and Richmond and between San Jose, Stockton and Sacramento, subject to certain restrictions and conditions. Under authorization granted by Decision No. 53474, dated July 23, 1956, it acquired from R. E. Bisnett operative rights permitting service as a highway common carrier generally between Monterey and San Francisco Territory and between Watsonville, Monterey, Pacific Grove, Carmel and Salinas, on the one hand, and Los Angeles Territory, on the other hand. The decision indicates that the purchase price paid R. E. Bisnett was \$100,000, of which \$57,500 was allocated to equipment, \$37,500 to goodwill and going concern value and \$5,000 to the operative rights. Savage Transportation Co., Inc., formerly operated as a highway common carrier of

property but in recent years has confined its operations to those of a permitted carrier.

The present application shows that Garden City Transportation Co., Ltd., now desires to dispose of the operative rights it acquired from R. E. Bisnett and that arrangements have been made for the sale of the operative rights, which had been acquired by Garden City Transportation Co., Ltd., from R. E. Bisnett, to Savage Transportation Co., Inc., for the sum of \$45,000, of which \$5,000 is allocated to the operative rights and \$40,000 to the business and goodwill. Under the agreed terms, Savage Transportation Co., Inc., will pay \$2,500 upon the closing date, \$2,500 in cash thereafter and the balance in monthly installments of \$500 for a period of 24 months, with the remaining balance payable upon the expiration of the 24-month period, with interest on the unpaid balance at the rate of 6% per annum.

According to the application no tangible assets will be transferred. It is clear that the purchase price is one that has been reached by agreement and represents the amount the seller is willing to accept and the purchaser is willing to pay.

It is not our practice to fix the price which may be paid by purchasers for public utility properties; ~~and, moreover, it is doubtful if the Public Utilities Code confers such jurisdiction on the Commission,~~ although the Commission may decline to give its approval to the transfer if it should appear that the purchaser does not have sufficient financial resources to meet the obligations it will incur and at the same time maintain the public utility service. In the present proceeding the record shows that Savage

Transportation Co., Inc., during 1957 had operating revenues of \$1,142,483 and net income of \$66,266, after making provision of \$56,055 for depreciation and that, as of the end of 1957, it had current assets of \$164,583, including cash on hand of \$56,135, as compared with current liabilities of \$115,784. Under the circumstances as disclosed in this proceeding, it would appear that the purchaser has sufficient resources to continue the business and to meet the obligations it will acquire and we are of the opinion, therefore, and so find, that the transfer will not be adverse to the public interest.

The action taken herein is not to be construed as a finding of the value of the operative rights herein authorized to be transferred nor as indicative of the amounts to be considered as the basis for an order authorizing the issue of stock.

In making our order herein, we place applicants 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 modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

On February 25, 1958, the Commission issued an order instituting an investigation on its own motion into the operations, rates and practices of Savage Transportation Company, Inc., being Case No. 6064. The Commission has not as yet issued its decision in this investigation. The authorization requested in this application is granted under the specific condition that the operative rights hereinbelow authorized to be transferred shall be subject to the decision to be issued in Case No. 6064.

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 execution of the agreement of purchase is reasonably required for the purpose set forth herein; therefore,

IT IS HEREBY ORDERED as follows:

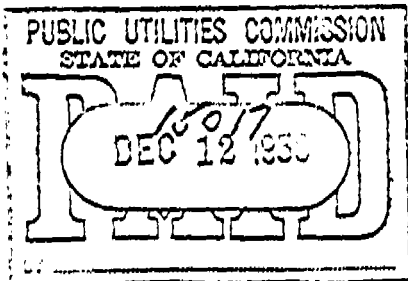
1. Garden City Transportation Co., Ltd., may sell to Savage Transportation Co., Inc., the operative rights acquired by it pursuant to authorization granted by Decision No. 53474, dated July 23, 1956, such transfer, if accomplished, to be completed on or before June 30, 1959. Upon their transfer to Savage Transportation Co., Inc., these operative rights shall be subject to the decision to be issued by the Commission in its Case No. 6064.
2. Savage Transportation Co., Inc., in exercising said operative rights may use U. S. Highway 101, 101 By-Pass, and 101 Alternate between San Francisco Territory, on the one hand, and Los Angeles Territory, on the other hand.
3. Savage Transportation Co., Inc., in acquiring said operative rights, may incur long-term indebtedness in an amount of not to exceed \$45,000 as set forth in this application.
4. Savage Transportation Co., Inc., is substituted for Garden City Transportation Co., Ltd., as a party to through routes and joint rates now maintained by Garden City Transportation Co., Ltd.

5. 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 Garden City Transportation Co., Ltd., has withdrawn or canceled and Savage Transportation Co., Inc., 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.

6. Savage Transportation Co., Inc., 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.

7. The authority herein granted will become effective when Savage Transportation Co., Inc., has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$45.

Dated at Los Angeles, California, this 9th day of December, 1958.



[Signature]
President
[Signature]
[Signature]
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Commissioners