

ORIGINALDecision No. 59527

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)

(a) BIG M TRUCKING COMPANY, a corporation, to purchase, and of MORROW TRUCKING CORP., a corporation, to sell, a certificate of public convenience and necessity for the transportation of special commodities between various points in Southern California, pursuant to Sections 851-853 of the California Public Utilities Code.)

Application No. 41669

(b) BIG M TRUCKING COMPANY, a corporation, to issue shares of its common capital stock, pursuant to Sections 816-830 of the California Public Utilities Code.)

O P I N I O N

This is an application for an order of the Commission (1) authorizing Morrow Trucking Corp. to sell and transfer operative rights to Big M Trucking Company, and (2) authorizing Big M Trucking Company to issue 1,000 shares of its common stock of the aggregate par value of \$10,000 in cancellation of indebtedness.

By Decision No. 55152, dated June 18, 1957, the Commission granted to Morrow Trucking Corp. a certificate of public convenience and necessity authorizing it to operate as a highway common carrier for the transportation of special commodities between Los Angeles, Compton, South Gate and Huntington Park, on the one hand, and Azusa, El Monte, Pomona, Ontario, Fontana, San Bernardino, Colton, Riverside, Arlington and Covina, on the other hand. In addition, Morrow Trucking Corp. is engaged in intrastate commerce pursuant to radial highway common carrier, highway contract carrier and city carrier permits issued by this Commission.

Big M Trucking Company is a recently organized California corporation presently engaged in intrastate commerce in California pursuant to a radial highway common carrier permit issued by this Commission. It proposes to purchase said certificate of public convenience and necessity from Morrow Trucking Corp. at a price of \$3,500, payable \$2,000 in cash with the balance of \$1,500 to be represented by a short-term 6% note, it being the desire of Morrow Trucking Corp. to engage primarily in dump-truck operations, and of Big M Trucking Company to add a highway common carrier business to its operations.

It appears that Big M Trucking Company was organized on or about April 10, 1959, and commenced operating under its radial highway common carrier permit on or about May 1, 1959. It reports that it has not issued any stock, but has conducted motor carrier operations with \$12,284.23 borrowed from two of its directors, James Hancock and Waldo Washington Massey, and in part by equipment sold to it by its president, T. C. Hollingsworth, for \$4,000, which sums are reflected on its books as accounts payable in the aggregate amount of \$16,284.23. Big M Trucking Company now desires to reduce the amount of said accounts payable through issuing \$10,000 par value of its common stock to James Hancock, Waldo Washington Massey and T. C. Hollingsworth, or any of them, in cancellation of \$10,000 of said indebtedness.

After consideration the Commission is of the opinion, and so finds, that the transfer, as proposed, will not be adverse to the public interest, that there will be no change in the rates to be charged the public as a result of the transfer, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose

specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

Big M Trucking Company is 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 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.

The action taken herein shall not be construed to be a finding of the value of the operative rights 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. Morrow Trucking Corp. may sell and transfer, and Big M Trucking Company may purchase and acquire, the certificate of public convenience and necessity created by Decision No. 55152, dated June 18, 1957.
2. Big M Trucking Company, on and after the effective date hereof and on or before March 31, 1960, may issue not to exceed \$10,000 par value of its capital stock for the purpose specified in this application.

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 Morrow Trucking Corp. has withdrawn or canceled and Big M Trucking Company 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. Big M Trucking Company 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. The authority herein granted will become effective twenty days after the date hereof.

Dated at San Francisco, California, this 12th
day of January, 1960.

Everett R. Reed
President
Walter E. Stalder
William J. Fisher
E. J. Fox
Theodore J. Jenner
Commissioners