

Decision No. 59566

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
H. H. HALVERSON and MARYANN HALVERSON,
co-partners, doing business as
HALVERSON TRANSPORTATION and MONROE
TRANSPORTATION CO., to transfer, and
HALVERSON TRANSPORTATION, a corporation,
doing business as MONROE TRANSPORTATION
CO., to acquire operating rights and
properties of a highway common carrier,
and to issue stock.

Application No. 41774

O P I N I O N

This is an application filed on December 21, 1959, for an order of the Commission (1) authorizing H. H. Halverson and Maryann Halverson, co-partners doing business as Halverson Transportation and Monroe Transportation Co., to sell and transfer their operative right, and the equipment and other assets used in highway common carrier operations to Halverson Transportation, a corporation, and (2) authorizing Halverson Transportation, a corporation, to issue and sell 5,000 shares of its \$10 par value stock of the aggregate par value of \$50,000 to finance the purchase of the assets to be acquired.

The co-partners are presently engaged in operations as a highway common carrier of general commodities, with certain exceptions, in the Los Angeles area under a certificate of public convenience and necessity granted to them by Decision No. 55467, dated August 27, 1957, as amended by Decision No. 56126, dated January 21, 1958, in Application No. 36480. They are also

engaged in operations as a permitted carrier under the firm name of Halverson Transportation and under the firm name of Monroe Transportation Co.

For the nine months ended September 30, 1959, the co-partners report freight revenues from operations of \$130,148.46 and net profit after depreciation of \$18,502.05. Their assets and liabilities as reflected in the September 30, 1959 balance sheet attached to the application as Exhibit A are as follows:

<u>Assets</u>		
Current assets -		
Cash and special deposits	656.84	
Accounts receivable	\$ 26,700.41	
Other current assets	<u>6,830.78</u>	
Total current assets		\$ 34,188.03
Tangible property -		
Carrier operating property	214,315.50	
Less: Reserve for depreciation	<u>83,738.98</u>	
Total tangible property		130,576.52
Intangible property - franchises		<u>4,050.00</u>
Total assets		<u>\$168,814.55</u>
<u>Liabilities</u>		
Current liabilities		
Equipment obligations		\$ 3,814.55
Partnership capital		<u>115,000.00</u>
		<u>50,000.00</u>
Total liabilities		<u>\$168,814.55</u>

The co-partners now desire to conduct their operations under a corporate form of organization. To accomplish this objective, they have caused the formation of Halverson Transportation, a California corporation, and propose to transfer their net assets, including operative rights, to the

corporation, at their book value, in exchange for 5,000 shares of the corporation's capital stock of the par value of \$10 per share and an aggregate par value of \$50,000.

Included in the assets to be transferred is an item of \$4,050 for franchises. Under the provisions of Section 820 of the Public Utilities Code, the Commission has no power to permit the capitalization of operative rights in excess of the amount actually paid to the state or to a political subdivision thereof as the consideration for the grant of such operative rights. Further, if the \$4,050 represent a capitalization of goodwill, we are of the opinion that the issue of stock in payment for goodwill is not one of the purposes contemplated by Section 817 of the Public Utilities Code. Moreover, the Commission has no information on which to predicate an order authorizing the issue of stock in payment for the purchase of operative rights. Deducting \$4,050 from the \$50,000 reported as the net value of assets to be transferred results in an amount of \$45,950 for which we will authorize the corporate applicant to issue and sell 4,595 shares of its capital stock.

From a review of the application, it appears that the proposed transfer will not be adverse to the public interest, that there will be no change in the rates to be charged to 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 \$45,950 par value of stock herein authorized is reasonably required for the purpose stated 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 a consideration for the granting 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 order entered herein 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, therefore,

IT IS HEREBY ORDERED as follows:

1. H. H. Halverson and Maryann Halverson may sell and transfer to Halverson Transportation, a corporation, the highway common carrier right and the assets referred to in this application.

2. Halverson Transportation, a corporation, may assume the payment of outstanding liabilities and may issue not to exceed \$45,950 par value of its common stock for the purpose set forth in this application.

3. This application, insofar as it involves the issue of an additional \$4,050 par value of stock, is denied.

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 covering the operations here involved to show that H. H. Halverson and Maryann Halverson have withdrawn or canceled, and Halverson Transportation, 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.

5. Halverson Transportation, 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.

6. This order shall become effective on the date hereof.

Dated at San Francisco, California, this 1st day of February, 1960.

Everett W. Page
President
Carl E. Mitchell
Michael D. Cook
John J. Fox
Theodore J. Jenner
Commissioners