

**ORIGINAL**Decision No. 60218

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 BUDCO TRUCKING CO., INC., a California  
 corporation, to purchase, and of  
 WAYMAN F. LINDSAY and RODNEY L. ROGERS,  
 doing business as LOCAL FREIGHT CO.,  
 to sell, a certificate of public con-  
 venience and necessity, and property,  
 pursuant to the Public Utilities Code,  
 Sections 851 and 1063: and for said  
 corporation to issue stock, pursuant  
 to the Public Utilities Code, Section  
 816, et seq.

Application No. 41985

O P I N I O N

By this application, as amended, Wayman F. Lindsay and Rodney L. Rogers, copartners, doing business as Local Freight Co., request authority to sell their business and assets, including highway common carrier certificate granted by Decision No. 56714, to Budco Trucking Co., Inc., and the latter joins in the request and proposes to continue the said business as heretofore authorized. Said certificate authorizes the transportation of general commodities between all points and places within the Los Angeles Territory as described in Appendix B attached to said decision. The assets proposed to be transferred consist of six van-type trucks, office furniture, certificate, accounts and good will, valued by the parties for the purposes of this sale at \$20,000, the purchase price. The tangibles are valued at \$4,000, and the intangibles at \$16,000 including good will at \$7,000 and \$9,000 as the cost of obtaining the above certificate and an interstate certificate. The terms of purchase are \$1,000 cash, payable upon the approval of the sale, and the balance to be represented by a note payable in installments of \$200 or more

per month. The purchase agreement does not provide for the payment of interest upon the unpaid balance.

Budco Trucking Co., Inc., was recently incorporated under the laws of this state for the purpose of engaging in the truck transportation business. It has no assets or liabilities. The authorized capital is \$25,000 consisting of 25,000 shares of the par value of \$1.00 each. It is proposed to sell 2000 shares at par for cash to the officers and directors and to use the proceeds for working capital and to make the down payment on the purchase price. Additional capital if required is available from the same parties and from the operation of the business. Three of the officers and directors are experienced in the transportation business. Thurlow E. Gardner, the president, now operates the Budget Trucking Company, a permitted carrier. The latter company had a gross revenue of approximately \$120,000 in 1959, and operates 11 trucks, 4 tractors and 5 semitrailers. It is alleged that the business Budco Trucking Co., Inc., is acquiring will materially improve under the new management. Budget Trucking Company proposes to specialize in contract sub-hauling and in heavy equipment hauling requiring the use of lift gates, and Budco Trucking Co., Inc., will continue with the present highway common carrier accounts and, in addition, will acquire new business from accounts now being handled by the Budget Trucking Company.

The Commission having considered the matter is of the opinion and finds that the proposed sale and transfer is not adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of stock and note 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.

The action taken herein shall not be construed to be a finding of the cost or value of the operative rights herein proposed to be transferred, nor as authorization to capitalize them in excess of the amount allowed by law. 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.

O R D E R

Application having been made, the Commission being fully advised in the premises and having found facts as hereinabove set forth,

IT IS ORDERED:

(1) That Wayman F. Lindsay and Rodney L. Rogers, copartners, may sell and transfer, on or before sixty days after the effective date of this order, to Budco Trucking Co., Inc., a corporation, all of their right, title and interest in and to the business and assets, including the certificate of public convenience and necessity referred to in the foregoing opinion, upon the terms and conditions set forth in the application, and Budco Trucking Co., Inc., may acquire said business and assets and certificate and shall continue to operate a highway common carrier service as heretofore authorized by this Commission.

(2) That Budco Trucking Co., Inc., may issue 2000 shares at par value of one dollar each and a promissory note in the principal amount of \$19,000, for the purposes and in the manner set forth in the application and may also execute and enter into an agreement providing for the payment of \$20,000 substantially as set forth in said application.

(3) That 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 Wayman F. Lindsay and Rodney L. Rogers, copartners, doing business as Local Freight Co. have withdrawn or canceled and Budco Trucking 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.

(4) That Budco Trucking 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.

(5) This order shall become effective when Budco Trucking Co., Inc., has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 6th day of June 1960.

[Signature]  
President

[Signature]  
Theodore J. J...

