

Decision No. 64870

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Albert Borchard, doing business as GENERAL TRUCKING SERVICE, a sole proprietorship, to transfer operating rights and other public utility property to GENERAL TRUCKING SERVICE, a corporation; and of GENERAL TRUCKING SERVICE, a corporation, for authority to issue capital stock.

Application No. 42445
(Amended)

O P I N I O N

This application was filed on July 6, 1960, and amended on August 17, 1960, for an order of the Commission (1) authorizing Albert Borchard, doing business as General Trucking Service, to transfer operative rights and equipment to General Trucking Service, a corporation, and (2) authorizing General Trucking Service, a corporation, to issue 2,500 shares of its common stock of the aggregate par value of \$25,000.

Albert Borchard is engaged in the operation of a highway common carrier service for the transportation of books, magazines and periodicals and iron or steel wire newspaper or magazine display racks between certain points in California, as defined in Decision No. 52065, dated October 11, 1955, as supplemented by Decision No. 52405, dated December 28, 1955, in Application No. 35856. For the year 1959, he reports operating revenues of \$312,024 and a net income of \$36,900, and for the first three months of 1960, his revenues and net income are reported at \$80,270 and \$19,219, respectively.

According to the pending application, Albert Borchard desires to incorporate his business and has organized General Trucking Service, a corporation, to receive his certificate of public convenience and necessity for which he assigns no value, 12 trailers valued at \$2,232, and miscellaneous equipment amounting to \$335. General Trucking Service, a corporation, proposes to issue \$25,000 of its common stock in exchange for said assets and \$22,433 of working cash, the need for which is set forth in some detail in Appendix D in this proceeding.

General Trucking Service, the new corporation, will adopt the tariffs now on file by Albert Borchard and it appears that there will be no change in the service now being offered the public. Upon the basis of the information contained in the verified application, including the amendment thereto, we find and conclude that the proposed transfer will not be adverse to the public interest; that the proposed stock issue is for proper purposes; 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 purposes specified herein; and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we will enter our order granting the application, as amended.

Applicants are 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 action taken herein shall not be construed to be a finding of the value of the operative rights and equipment 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. Albert Borchard may transfer to General Trucking Service, a corporation, his assets and the certificate of public convenience and necessity which was granted by Decision No. 52065, dated October 11, 1955, as supplemented by Decision No. 52405, dated December 28, 1955, in Application No. 35856.
2. General Trucking Service, a corporation, in acquiring the certificate and the assets referred to in this proceeding, together with \$22,433 of working cash, may issue not to exceed \$25,000 par value of its common stock.
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 common carrier operations here involved to show that Albert Borchard has withdrawn or canceled and General Trucking Service, 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. 8C.

4. General Trucking Service, 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.

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

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

Evelyn W. Borge
President
Sup. E. J. Mitchell
Walter K. Hale
E. J. Borge
Commissioners