

Decision No. 62357

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF KATIE ERNST, doing)
business as J. O. ERNST DEPENDABLE)
MOTOR TRUCKING, a sole proprietor-)
ship, to transfer operating rights)
and other public utility property)
to J. O. ERNST DEPENDABLE MOTOR)
TRUCKING, a corporation, and of)
J. O. ERNST DEPENDABLE MOTOR)
TRUCKING, a corporation, for)
authority to issue capital stock.)

Application No. 43583
Filed July 6, 1961

O P I N I O N

This is an application for an order of the Commission authorizing Katie Ernst to transfer highway common carrier operative rights and property to J. O. Ernst Dependable Motor Trucking, a corporation, and authorizing said corporation to issue \$36,000 par value of its common stock.

It appears that for many years Katie Ernst, doing business as J. O. Ernst Dependable Motor Trucking, has been engaged in business as a highway common carrier of property between Los Angeles and Long Beach, under a certificate of public convenience and necessity granted by Decision No. 8505, dated January 3, 1921; that she has now concluded to incorporate her business; and that she has made arrangements to transfer her operative rights, property and current assets to J. O. Ernst Dependable Motor Trucking, a corporation, at their book values subject to current liabilities. The new corporation will assume the liabilities and will issue

common stock in an amount approximately equal to Katie Ernst's reported net worth of \$36,202. The application shows that nothing is included in the assets for the value of the operative rights.

The new corporation will adopt the rates of Katie Ernst and will continue the operations without change in the management or service to the public. Upon consummating the transaction, the corporation will acquire a going concern which, in 1960, realized operating revenues of \$189,920 and net operating income of \$10,459, before income taxes, and it will enter upon its operations in a favorable cash position, according to financial statements filed with this application which show, as of May 1, 1961, current assets in the amount of \$19,569 and current liabilities in the amount of \$6,444, with no long-term indebtedness.

Upon reviewing the application, we find and conclude that the proposed transfer will not be adverse to the public interest; 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. On the basis of these findings, we will enter an order granting the application.

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.

The action taken herein shall not be construed to be a finding of the value of the rights and property 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 that -

1. Katie Ernst, doing business as J. O. Ernst Dependable Motor Trucking, on or after the effective date hereof and on or before December 31, 1961, may transfer her highway common carrier operative rights and property to J. O. Ernst Dependable Motor Trucking, a corporation.

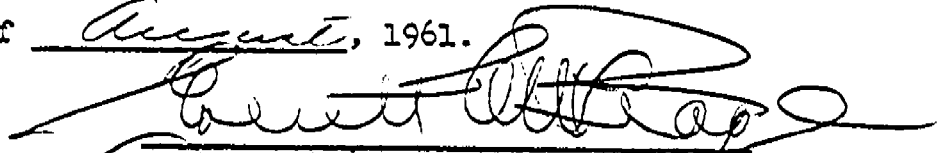
2. J. O. Ernst Dependable Motor Trucking, a corporation, on or after the effective date hereof and on or before December 31, 1961, in acquiring said operative rights and property, may assume the payment of outstanding liabilities and may issue not to exceed \$36,000 par value of its common stock.

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 operations here involved to show that Katie Ernst, doing business as J. O. Ernst Dependable Motor Trucking, has withdrawn or canceled and J. O. Ernst Dependable Motor Trucking, 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.

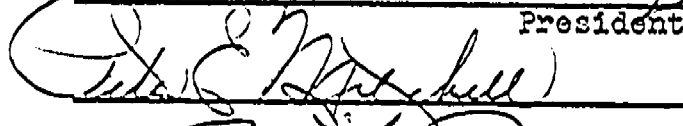
4. J. O. Ernst Dependable Motor Trucking, a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

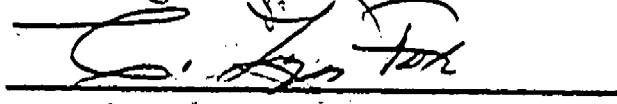
5. This order shall become effective 20 days after the date hereof.

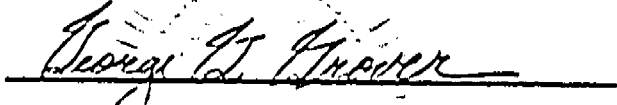
Dated at San Francisco, California,
this 1st day of August, 1961.

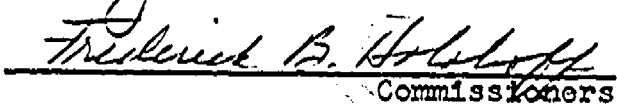


President









Commissioners