

ORIGINAL

Decision No. 62609

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MELVIN D. ALDERS, THOMAS R. MINER,
HAROLD D. KENNEDY AND JOSEPH BONDI,
a co-partnership doing business as
BAY CITIES EXPRESS CO., to sell
and transfer, and BAY CITIES
EXPRESS CO. a California
Corporation to purchase and acquire
operative rights, equipment and
other assets of seller, and for
authority to issue shares of its
capital stock.

Application No. 43705
Filed August 25, 1961

O P I N I O N

This is an application for an order of the Commission
(1) authorizing Melvin D. Alders, Thomas R. Miner, Harold D.
Kennedy and Joseph Bondi, a copartnership doing business as
Bay Cities Express Co., to transfer highway common carrier
operative rights, equipment and other assets to Bay Cities
Express Co., a California corporation, and (2) authorizing
said corporation to assume indebtedness and to issue \$14,320
par value of its capital stock.

The copartners are engaged, as highway common
carriers, in the transportation of general commodities
between various points in the Counties of Alameda, Contra
Costa, Monterey, San Benito, San Francisco, San Mateo, Santa
Clara and Santa Cruz, as defined in the certificate of public
convenience and necessity granted by Decision No. 60503, dated

August 2, 1960, in Application No. 41819. It appears that the copartners have concluded that the operations can be conducted more advantageously by means of a corporate form of organization, and that they propose to transfer their operative rights, equipment and other assets, except accounts receivable, to Bay Cities Express Co., a corporation which they caused to be formed on or about December 21, 1959. Such corporation will acquire said operative rights, equipment and other assets at their book values, will assume the outstanding liabilities and will issue not to exceed 1,432 shares of its common capital stock of the total par value of \$14,320.

A pro forma balance sheet of Bay Cities Express Co., a corporation, as of April 1, 1961, giving effect to the proposed transfer and stock issue, is obtained from Exhibit E attached to the application, as follows:

Assets

Current assets -		
Cash - operating	\$ 4,792.09	
C.O.D. cash	1,859.95	
Prepaid insurance	1,139.71	
Prepaid interest	2,292.72	\$10,084.47
Fixed assets -		
Revenue equipment - freight	69,983.14	
Noncarrier property	1,442.88	
	71,426.02	
Less depreciation reserves	27,071.60	44,354.42
Operative rights		2,320.00
Other assets		473.20
Total		<u>\$57,232.09</u>

Liabilities and Capital

Current liabilities -		
Employment taxes payable	\$ 8,795.41	
C.O.D.'s unremitted	1,859.95	
Notes payable	26,177.44	
Due partners for taxes	141.50	\$36,974.30
Long-term notes payable		5,937.79
Capital stock		14,320.00
Total		<u>\$57,232.09</u>

The application shows that there will be no change in the rates or service as the result of the transfer, and that the same operative properties and management will be available to Bay Cities Express Co., a corporation, as now are utilized in the operations.

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.

Bay Cities Express Co., a corporation, 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 rights and properties 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 ORDERED that -

1. Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi, on or after the effective date hereof and on or before January 31, 1962, may sell, assign and transfer to Bay Cities Express Co., a corporation, the certificate of public convenience and necessity granted by Decision No. 60503, dated August 2, 1960, in Application No. 41819, and the equipment and other assets, as set forth in this application. For accounting purposes said transfer may be made as of April 1, 1961.

2. Bay Cities Express Co., a corporation, on or after the effective date hereof and on or before January 31, 1962, in acquiring said certificate of public convenience and necessity, equipment and other assets, may assume the payment of outstanding liabilities and may issue not to exceed \$14,320 par value of its capital 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 Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi have withdrawn or canceled and that Bay Cities Express Co., 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. Bay Cities Express Co., 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 3rd day of OCTOBER, 1961.

President

E. J. Fox

George E. Grover

Frederick B. Hallock

Commissioners

Peter E. Mitchell
Commissioner; Everett C. McKeage, being
necessarily absent, did not participate
in the disposition of this proceeding.