

ORIGINAL

Decision No. 63168

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MICHAEL T. McINERNEY, doing business as M and N Truck Line, to sell and transfer, and M and N Truck Line, 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. 44044
Filed December 22, 1961

O P I N I O N

This is an application for an order of the Commission authorizing Michael T. McInerney, doing business as M and N Truck Line, to transfer operative rights and equipment to M and N Truck Line, a corporation, and authorizing said corporation to assume certain liabilities and to issue \$13,000 par value of common stock.

The application shows that Michael T. McInerney is engaged in business as a highway common carrier of general commodities, with certain exceptions, between all points and places in the San Francisco-East Bay Cartage Zone, and certain other points, under a certificate of public convenience and necessity granted by Decision No. 60122, dated May 17, 1960, in Application No. 41849; that said McInerney has concluded to incorporate his business; and that he has

organized applicant corporation and proposes to transfer to it his operative rights, equipment and assets. Applicant McInerney asserts, among other things, that the transfer to a corporation, as here proposed, will aid in financing the cost of further expansion.

The plans contemplate that the new corporation will take over the assets of applicant McInerney at book values, will assume the outstanding liabilities, and will issue to applicant McInerney its shares of common stock in an aggregate amount approximately equal to his reported net worth. A condensed statement, prepared from Exhibit B attached to the application, shows the seller's assets, liabilities and net worth as of October 25, 1961, as follows:

<u>Assets</u>		
Current assets -		
Cash	\$6,546.28	
Accounts receivable	2,148.70	
Prepaid expense	597.85	
Total current assets		\$ 9,292.83
Tangible assets, less depreciation		13,293.15
Intangible assets		450.00
Total		<u>\$23,035.98</u>
<u>Liabilities and Net Worth</u>		
Current liabilities		\$ 1,215.18
Notes and contracts payable		8,735.64
Net worth		<u>13,085.16</u>
Total		<u>\$23,035.98</u>

Exhibit C shows that during the period from January 1 through October 25, 1961, applicant McInerney's operating revenues amounted to \$58,734.71 and his net profit to \$12,095.19, after making deductions of \$3,931.74 for depreciation.

From a review of the application it appears that there will be no change in the management, facilities or operations as a result of the proposed transfer, and that the corporation will succeed to a going profitable concern, equipped with nine units of rolling stock, and will enter upon its operations in what appears to be a good financial position. Under the circumstances as set forth in the application, we find and conclude that the proposed transfer will not be adverse to the public interest and we will enter an order granting applicants' requests.

In making this order we place M and N Truck Line, a corporation, 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 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; that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by M and N Truck Line, a corporation, for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS ORDERED as follows:

1. Michael T. McInerney, doing business as M and N Truck Line, may sell, assign and transfer to M and N Truck Line, a corporation, the certificate of public convenience and necessity granted by Decision No. 60122, dated May 17, 1960, and the equipment and assets set forth in this application.

2. M and N Truck Line, a corporation, on and after the effective date hereof and on or before April 30, 1962, may issue not exceeding \$13,000 par value of its common stock and assume the payment of outstanding liabilities

as set forth in this application in payment for said certificate, equipment and assets.

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 Michael T. McInerney, doing business as M and N Truck Line, has withdrawn or canceled, and that M and N Truck Line, 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. M and N Truck Line, 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 will become effective 20 days after the date hereof.

Dated at San Francisco, California,
this 26th day of JANUARY, 1962.

[Signature]
President

George T. Grover

Frederick B. Holschoff

Peter E. Mitchell

Commissioner's C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioners