

ORIGINAL

Decision No. 63842

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BROWN DRAYAGE, INC., a corporation,
to sell, and L & V TRUCKING, INC.,
a corporation, to purchase a
highway common carrier certificate.

Application No. 44524
Filed June 8, 1962

O P I N I O N

This is an application for an order authorizing Brown Drayage, Inc., to transfer to L & V Trucking, Inc., operative rights which were granted by Decision No. 60182, dated May 24, 1960, in Application No. 41837, in lieu of and as an extension of then existing rights for the operation as a highway common carrier of general commodities between San Francisco, Richmond, San Jose, Santa Cruz and intermediate points.

It appears that Raymond M. Brown, the principal owner, president and general manager of Brown Drayage, Inc., finds it necessary to retire from business, that he has made arrangements to sell his operative rights to Louis J. Amaral for the sum of \$12,500, and that it is proposed for the transfer to be made to L & V Trucking, Inc., a new corporation which has been organized recently by Mr. Amaral.

The application shows that Louis J. Amaral is engaged in business as a radial highway common carrier, highway contract carrier and city carrier, that he has substantial terminal facilities in San Francisco, that he owns a fleet of 45 units of equipment and that he is taking steps to transfer his permits and equipment to L & V Trucking, Inc., in exchange for stock of the corporation of a total par value equivalent to the net worth of the business after allowance for outstanding obligations. Separate applications for authority to transfer the permits and to issue the stock will be filed forthwith.

A financial statement filed with the application as Exhibit B shows that as of December 31, 1961, Louis J. Amaral reported current assets of \$23,480 as compared with accounts payable of \$6,480 and a capital structure consisting of \$64,579 of long-term debt and \$99,117 of proprietary capital. The statement further shows that for the year 1961 his gross revenues from operations amounted to \$318,460 and his net profit to \$30,683, after deducting \$40,474 for depreciation.

The consideration now to be paid for the operative rights of Brown Drayage, Inc., apparently represents a price agreed upon by the parties to the transaction. While no authorization is sought to capitalize the purchase price by the issue of securities, we are concerned, of course, in this and in any other transfer, that the agreed purchase price does not place such a burden on the purchaser as to threaten to impair the ability of the purchaser to continue to render

adequate public service. In the present proceeding it appears that when the pending arrangements are completed, the new corporation will enter upon its operating life in a good financial position, possessed of operative equipment and succeeding to a going business. We find and conclude that the transfer of the operative rights as herein proposed and the succession to the business by the new corporation will not be adverse to the public interest. We will enter our order granting the application.

Our order in this proceeding shall not be construed to be a finding of the cost or value of the operative rights 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

The Commission has considered the above-entitled matter and has determined that a public hearing is not necessary and that the application should be granted, therefore,

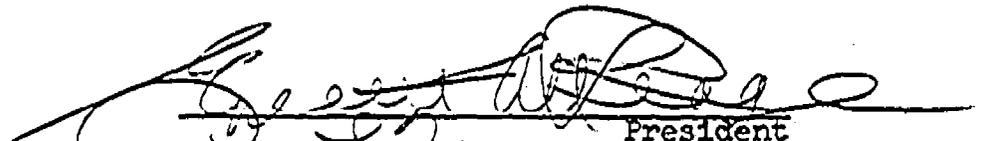
IT IS ORDERED that -

1. On or before September 30, 1962, Brown Drayage, Inc., may sell and transfer, and L & V Trucking, Inc., may purchase and acquire the certificate of public convenience and necessity granted by Decision No. 60182, dated May 24, 1960, in Application No. 41837.
2. Within thirty days after the consummation of the transfer herein authorized, L & V Trucking, Inc., shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved to show that Brown Drayage, Inc., has withdrawn or canceled, and L & V Trucking, Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the

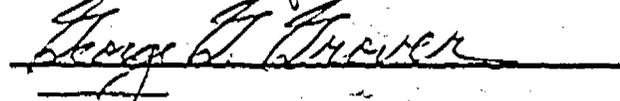
effective date of this order on not less than ten days' notice to the Commission and to the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

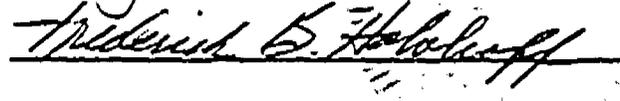
4. This order shall become effective on the date hereof.

Dated at San Francisco, California,
this 26th day of JUNE 4, 1962.



President



Commissioners

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