

ORIGINAL

Decision No. 64424

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) MILTON'S EXPRESS, INC., a corporation, for authority to issue shares of its common capital stock pursuant to Section 816-830 of the California Public Utilities Code.

(b) MILTON C. AMUNDSON, an individual, doing business as MILTON'S EXPRESS, to sell, and MILTON'S EXPRESS, INC., a corporation, to purchase a highway common carrier operating authority for the transportation of property between points and places in Southern California pursuant to Section 851-853 of the California Public Utilities Code.

Application No. 44791
Filed September 17, 1962

O P I N I O N

This is an application for an order of the Commission authorizing Milton C. Amundson, an individual doing business as Milton's Express, to transfer operative rights and assets to Milton's Express, Inc., and authorizing Milton's Express, Inc., to assume the payment of indebtedness and to issue 200 shares of its no par value common stock.

The application shows that Milton C. Amundson is engaged in intrastate commerce as a highway common carrier in the transportation of commodities in specially designed and constructed equipment, requiring the use of special

refrigeration or temperature control, between points and places located in the southern California area under authorization granted by Decision No. 62895, dated December 5, 1961, and as a permitted carrier under radial highway, contract and city carrier permits; that he desires to conduct his operations under a corporate form of organization; and that he proposes to transfer to the corporation which he has organized, namely, Milton's Express, Inc., all his operative rights and assets at their book value, subject to liabilities, the transfer to be made as of February 1, 1962. The application further shows that the new corporation will assume the outstanding liabilities as of that date, as shown in Exhibit B annexed to the application; will issue 200 shares of its no par value common stock; and will continue the operations without interruption of service, at the same rates and charges, and utilizing the same equipment and personnel.

We have considered this application and we find 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 shares of 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. We will enter an order granting the application.

In making this order we place Milton's Express, Inc., 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, such rights extend to the holders 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 operative rights and assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of only the certificate of public convenience and necessity now held by Milton C. Amundson. A separate application, or applications, must be filed for the transfer of the permitted operative rights.

O R D E R

The Commission has determined that a public hearing is not necessary in this application and that the requests of applicants should be granted, therefore,

IT IS ORDERED that -

1. On or before February 28, 1963, Milton C. Amundson may sell and transfer, and Milton's Express, Inc., may purchase and acquire, the certificate of public convenience and necessity granted to Milton C. Amundson by Decision No. 62895, dated December 5, 1961, and all the assets as set forth in this application, said transfer to be made as of February 1, 1962.

2. Milton's Express, Inc., for the purpose of acquiring said certificate and assets, may assume the payment of outstanding indebtedness and may issue not to exceed 200 shares of its no par value common stock.

3. Within thirty days after the consummation of the transfer herein authorized Milton's Express, 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.

4. 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 Milton C. Amundson, doing business as Milton's Express, has withdrawn or canceled, and Milton's Express, Inc., a corporation, 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-A.

5. Milton's Express, Inc., 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.

6. The authority herein granted shall become effective twenty days after the date hereof.

Dated at San Francisco, California,
this 23rd day of OCTOBER, 1962.

George A. Hoover
President
[Signature]
[Signature]
[Signature]
Fredrick B. Holbrook
Commissioners