

ORIGINAL

Decision No. 64489

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

MILO R. BROWN and MAURICE C. BROWN,
co-partners doing business as
TODD FREIGHT LINES

for authority to transfer assets
and

TODD FREIGHT LINES, INC., a
corporation,

for authority to acquire assets
and to issue stock.

Application No. 44831
Filed October 5, 1962

O P I N I O N

This is an application for an order of the Commission authorizing Milo R. Brown and Maurice C. Brown, copartners doing business as Todd Freight Lines, to transfer operative rights and assets to Todd Freight Lines, Inc., and authorizing Todd Freight Lines, Inc., to assume the payment of indebtedness and to issue 300 shares of its \$10 par value common stock.

The application shows that Milo R. Brown and Maurice C. Brown are engaged in intrastate commerce as a highway common carrier in the transportation of general commodities, with certain exceptions, between Stockton and Turlock on U. S. Highway 99 and certain lateral highways and between points in the Counties of Madera, Merced and Stanislaus under

certificates of public convenience and necessity granted by Decisions Nos. 59702, 60029, 63220 and 63596; that they desire to conduct their operations under a corporate form of organization; and that they propose to transfer to a corporation which they have organized, namely, Todd Freight Lines, Inc., all their operative rights and assets at their book values as of June 30, 1962. The application further shows that the new corporation will assume the outstanding liabilities of the business, will issue 300 shares of its \$10 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 Todd Freight Lines, 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.

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, Milo R. Brown and Maurice C. Brown, copartners doing business as Todd Freight Lines, may sell and transfer, and Todd Freight Lines, Inc., may purchase and acquire, the certificates of public convenience and necessity granted to said Milo R. Brown and Maurice C. Brown by Decisions Nos. 59702, 60029, 63220 and 63595 and the assets as set forth in this application.

2. Todd Freight Lines, Inc., for the purpose of acquiring said certificates and assets, may assume the payment of outstanding indebtedness as shown in the application and may issue not to exceed 300 shares of its \$10 par value common stock.

3. Within thirty days after the consummation of the transfer herein authorized Todd Freight Lines, 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. Todd Freight Lines, Inc., 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 it 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. Todd Freight Lines, 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 7th day of NOVEMBER, 1962.

George G. Trover
President

W. D. Mitchell

L. J. Foy

Conrad O. King

Frederic B. Hallock
Commissioners