

ORIGINAL

Decision No. 65408

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) DOUGLAS JOSEPH, ZETTA JOSEPH, IRVING B. JOSEPH, HUDSON JOSEPH, JESSIE T. JOSEPH, ROY JOSEPH and DONALD I. JOSEPH, copartners doing business as OWENS VALLEY FREIGHT LINES, to sell, and of DOUGLAS JOSEPH, HUDSON JOSEPH, ROY JOSEPH and DONALD I. JOSEPH, copartners doing business as OWENS VALLEY FREIGHT LINES, to purchase, a certificate of public convenience and necessity for the transportation of special commodities as a highway common carrier between Los Angeles, on the one hand, and, on the other hand, Bishop, Lone Pine and Big Pine, pursuant to Sections 851-853 of the California Public Utilities Code.

(b) DOUGLAS JOSEPH and HUDSON JOSEPH to each issue a promissory note to ZETTA JOSEPH, pursuant to Sections 816-830 of the California Public Utilities Code.

(c) ROY JOSEPH and DONALD I. JOSEPH to each issue promissory notes to IRVING B. JOSEPH and JESSIE T. JOSEPH, pursuant to Sections 816-830 of the California Public Utilities Code.

Application No. 45372
Filed April 22, 1963

O P I N I O N

This is an application for an order of the Commission authorizing the transfer of partnership interests in the Owens Valley Freight Lines and the issue of notes, by the surviving partners, in the aggregate amount of \$15,940.48.

The application shows that Douglas Joseph, Zetta Joseph, Irving B. Joseph, Hudson Joseph, Jessie T. Joseph, Roy Joseph and Donald I. Joseph, are partners doing business as Owens Valley Freight Lines in the operation of a highway common carrier service between Los Angeles and Bishop, Lone Pine and Big Pine under a certificate of public convenience and necessity granted by Decision No. 52094, dated October 18, 1955, in Application No. 36426, and as a highway contract carrier and a radial highway common carrier; that three of said partners, namely, Zetta Joseph, Irving B. Joseph and Jessie T. Joseph, desire to withdraw and have made arrangements to sell their partnership interests, at their book values, to the surviving partners, in exchange for individual notes; and that said surviving partners, namely, Douglas Joseph, Hudson Joseph, Roy Joseph and Donald I. Joseph, will adopt the present rates and will continue the present operations. Stated more specifically, Zetta Joseph proposes to sell her interest to Douglas Joseph and Hudson Joseph in exchange for two notes aggregating \$5,334.64; Irving B. Joseph proposes to sell his interest to Roy Joseph and Donald I. Joseph in exchange for two notes aggregating \$5,302.92; and Jessie T. Joseph will sell her interest to Roy Joseph and Donald I. Joseph in exchange for two notes also aggregating \$5,302.92.

We have considered this application and we find that the proposed transfer of partnership interests 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 notes

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. A public hearing is not necessary. We will enter an order granting the application.

In making this order we place Owens Valley Freight Lines 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. 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. So far as such rights are concerned, the authorization herein granted is for the transfer of partnership interest in only the certificate of public convenience and necessity now held by the present partnership. A separate application, or applications, must be filed for the transfer of the interests in the highway contract and radial highway common carrier permits.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1963, Zetta Joseph, Irving B. Joseph and Jessie T. Joseph may sell and transfer their partnership interests in the Owens Valley Freight Lines and Douglas Joseph, Hudson Joseph, Roy Joseph and Donald I. Joseph may purchase and acquire said interests under the terms and conditions set forth in this application.

2. Douglas Joseph, Hudson Joseph, Roy Joseph and Donald I. Joseph, for the purpose of acquiring said partnership interests, may issue their notes in the amounts and under the terms set forth in this application.

3. Within thirty days after the consummation of the transfers herein authorized Douglas Joseph, Hudson Joseph, Roy Joseph and Donald I. Joseph 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 Douglas Joseph, Hudson Joseph, Roy Joseph and Donald I. Joseph, doing business as Owens Valley Freight Lines, have adopted or established, as their 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 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. The authority herein granted shall become effective when applicants have paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California,
this 21st day of MAY, 1963.

George T. Hoover
President

John C. ...

Fredrick B. Holoboff

William W. ...

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of ~~this~~ Commissioners

