

ORIGINALDecision No. 66188

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BRAKE DELIVERY SERVICE, a corporation,)
 to purchase, and of RUDOLF R. ROESIES,)
 an individual doing business as)
 R. ROESIES TRUCKING CO., to sell,)
 a certificate of public convenience)
 and necessity for the transportation)
 of special commodities between various)
 points in Southern California,)
 pursuant to Sections 851-853 of the)
 California Public Utilities Code.)

Application No. 45679

O P I N I O N

Rudolf R. Roesies, doing business as R. Roesies Trucking Co., seeks authority to sell and transfer his certificate of public convenience and necessity and certain operating equipment to Brake Delivery Service, which seeks authority to purchase said operating rights and equipment.

Copies of the application were served on various highway common carriers serving the area encompassed by the certificate of public convenience and necessity here involved. No protests have been filed against granting the application.

Rudolf R. Roesies (hereafter called Roesies) is the owner and holder of a certificate of public convenience and necessity authorizing him to operate as a highway common carrier. The certificate was granted by Decision No. 56648 in Application No. 36337. It authorizes Roesies to transport drugs, medicines, toilet preparations and dental, hospital or surgical supplies between (1) Los Angeles and Santa Barbara with service to intermediate points on specified highways, and (2) Los Angeles and

Ontario with service to intermediate points on specified highways. Roesies also holds permits authorizing him to operate as a highway contract carrier, radial highway common carrier and city carrier.

Brake Delivery Service, a corporation (hereafter referred to as Brake), holds a certificate of public convenience and necessity granted by Decision No. 62448 in Application No. 42800. It authorizes Brake to transport general commodities, with the usual exceptions, between points within the Los Angeles Basin Territory and between the Los Angeles Basin Territory, on the one hand, and, on the other hand, the San Diego Territory, with service authorized to certain intermediate points. Brake also holds permits authorizing it to operate as a highway contract carrier, radial highway common carrier and city carrier.

The verified application alleges that Roesies desires to dispose of his motor carrier business and retire; that Brake is managed by thoroughly competent motor carrier personnel who have conducted operations in Southern California for many years and that the acquisition of Roesies' operating rights by Brake will permit Brake to expand its operations in the Southern California area.

The application discloses that the parties entered into an agreement, subject to the approval of this Commission, whereby Brake would purchase Roesies' certificate of public convenience and necessity and the goodwill relating thereto for the sum of \$6,000. Brake also agreed to purchase four pieces of operating equipment (van trucks) for the sum of \$10,000, which is alleged to be their fair market value. The purchase price is to be paid

as follows: Brake is to pay Roesies \$1,000 upon execution of the agreement, \$3,700 upon consummation of the transaction after approval by this Commission, interest at six percent per annum from the date of consummation until January 15, 1964 and the remaining balance of \$11,300 in equal monthly installments of \$500 or more, including interest on the unpaid balance at the rate of six percent per annum, commencing January 15, 1964 until the balance is paid.

The record indicates that for the first six months of 1963, Brake had a net income, after taxes including income taxes, of \$27,695 on gross revenues of \$403,363. Brake had a capital surplus of \$108,354 as of June 30, 1963.

A public hearing is not necessary in this matter.

Findings of Fact

The Commission finds that:

1. The proposed transfer of Roesies' certificate of public convenience and necessity granted in Decision No. 56648 and the property described in the application to Brake Delivery Service would not be adverse to the public interest.
2. Brake should be authorized to issue a promissory note to Roesies in an amount not to exceed \$11,300, with interest at six percent per annum on the unpaid balance. The property to be procured or paid for by the issue of the indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Conclusion of Law

Applicants should be authorized to consummate the sale and transfer of the certificate of public convenience and necessity and operating equipment referred to in the application.

O R D E R

IT IS ORDERED that:

1. On or before January 1, 1964, Rudolf R. Roesies may sell and transfer, and Brake Delivery Service may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Brake Delivery Service 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. Brake Delivery Service shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein 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 thirty days after the effective date of this order on not less than thirty 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.

4. If, as a result of this decision, Brake Delivery Service acquires any operating rights which duplicate operating rights which it presently holds, such operating rights shall merge together and may not hereafter be separated to permit Brake Delivery Service to sell or transfer one certificate authority and retain another certificate authority to perform the same service.

5. The authority herein granted to issue a note will become effective when Brake Delivery Service has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 22nd day of OCTOBER, 1963.

President

Carl E. Zuercher

Arvid W. Reage

George H. Grover

Fredrick B. Halachoff

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

