

ORIGINAL

Decision No. 69221

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of (1) ALFRED F. ANTONI, an)
individual doing business as)
ANTONI TRUCK LINES, to lease and)
sell to ANTONI TRUCK LINES, a)
corporation, and for the latter)
to lease and purchase from the)
former, certain public utility)
assets and certificates of public)
convenience and necessity, and)
(2) ANTONI TRUCK LINES, a)
corporation, to issue stock, a)
promissory note and chattel)
mortgage.)

Application No. 47415
Filed March 15, 1965
and Amendment
Filed May 21, 1965

O P I N I O N

This is an application for an order of the Commission (1) authorizing Alfred F. Antoni, an individual doing business as Antoni Truck Lines, to lease certain terminal facilities and to sell and transfer a highway common carrier certificate of public convenience and necessity, together with motor vehicle equipment and certain related assets, to Antoni Truck Lines, a corporation, and (2) authorizing Antoni Truck Lines, a corporation, to assume long-term obligations, to issue \$100,000 par value of its capital stock and a promissory note in the principal amount of \$55,173.48, and to execute a Security Agreement.

By Decision No. 61506, dated February 12, 1961, as amended by Decision No. 61562, dated February 21, 1961, in Application No. 42740, the Commission granted Alfred F. Antoni, an individual doing business as Antoni Truck Lines, a certificate of public convenience and necessity authorizing him to operate as a highway common carrier of general commodities, with certain exceptions, between all points and places in the San Francisco-East Bay Cartage Zone and between certain other localities in central and northern California. In addition, Alfred F. Antoni possesses certain other operative rights which are not involved in this proceeding. Information submitted in connection with the application indicates that because of a health problem, the seller finds it necessary to be relieved of some of the burdens and responsibilities related to his operations.

Exhibit C-1, attached to the application, is a copy of a Purchase and Sale Agreement entered into on November 13, 1964, wherein Alfred F. Antoni agrees to sell certain operative rights, including said highway common carrier certificate of public convenience and necessity, together with related motor vehicle equipment, good will and other assets, subject to liabilities, to Antoni Truck Lines, a corporation, for the sum of \$88,500. Pursuant to the terms of a proposed Lease appended to said Exhibit C-1, Alfred F. Antoni would lease his Ukiah terminal facilities to the corporation for a monthly rental of \$400 over a one-year period, subject to a two-year extension by timely notice from the lessee.

In acquiring the assets, Antoni Truck Lines, a corporation, agrees to assume outstanding liabilities which aggregate \$147,329.31 as of August 31, 1964, and which include \$36,673.48 representing obligations in favor of Alfred F. Antoni and Antoni Transportation Service, a corporation controlled by Alfred F. Antoni, who owns all of its outstanding capital stock. The balance sheet, annexed to said Exhibit C-1, indicates that the proprietor's capital account balance was \$7,976.18 as of August 31, 1964, and that assets of the business totaled \$155,305.49, including costs of \$7,226.20 incident to obtaining operative rights. Applicants report that said costs will be reduced by \$1,500 representing the cost of operative rights to be retained by the seller. The purchaser proposes to allocate the \$82,023.82 excess of the consideration over the net assets to intangible property and to carrier operating property in respective amounts of \$73,027.57 and \$8,996.25, the latter arising from an independent appraisal. In accordance with Section 820 of the Public Utilities Code, it appears that the \$73,027.57 would be allocated to the particular class of intangible property known as good will.

The application shows that Antoni Truck Lines, a California corporation organized on or about October 26, 1956, has been inactive. In this proceeding, the company requests authority to issue and sell 1,000 shares of its \$100 par value capital stock for \$100,000 cash, and it proposes to apply \$70,000 of the proceeds toward part payment of the purchase

price and to use \$30,000 for working capital. In order to finance the \$18,500 balance of the consideration for the purchase and to discharge said \$36,673.48 of obligations, the corporation seeks permission to issue a \$55,173.48 promissory note in favor of Alfred F. Antoni, requiring repayments of principal over a two-year period in monthly installments of \$2,298.89 or more, plus interest on deferred payments at the rate of 6% per annum, and secured by a Security Agreement.

In addition, applicants seeks orders from this Commission (a) authorizing the execution of a Lease of Motor Vehicle Equipment by and between Antoni Transportation Service, a corporation, and Antoni Truck Lines, a corporation, and (b) authorizing applicants to execute a Temporary Lease Agreement involving said highway common carrier certificate of public convenience and necessity, pending receipt of appropriate authorizations from this Commission and from the Interstate Commerce Commission to consummate the proposed transactions. Antoni Transportation Service, a corporation, possesses no operative rights as a public utility subject to the jurisdiction of the Commission, and the matter of a temporary lease should be the subject of a separate application accompanied by an additional \$150 filing fee in accordance with Section 1064.1 of the Public Utilities Code.

According to the application, Antoni Truck Lines, a corporation, will be controlled by John A. Pifer, who is the President and controlling stockholder of Associated Freight Lines. It is alleged that such affiliation will provide the buyer with experienced personnel and adequate facilities for the performance of highway common carrier services.

The Commission has considered this matter and finds that: (1) the lease involving motor vehicle equipment and the temporary lease are not properly before the Commission in this proceeding; (2) the proposed lease of terminal facilities and the proposed sale and transfer would not be adverse to the public interest; (3) the money, property or labor to be procured or paid for by the issue of the stock and note herein authorized is reasonably required for the purposes specified herein; and (4) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application, insofar as it relates to a Lease of Motor Vehicle Equipment and a Temporary Lease Agreement, should be dismissed without prejudice, and that, in all other respects, the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of the highway

common carrier certificate of public convenience and necessity only. The transfer of permitted operative rights must be the subject of a separate application or applications.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1965, Alfred F. Antoni may sell and transfer, and Antoni Truck Lines, a corporation, may purchase and acquire, the highway common carrier certificate of public convenience and necessity and other assets referred to in this application.

2. Alfred F. Antoni may lease the terminal facilities described in the application to Antoni Truck Lines, a corporation, in accordance with an indenture in the same form, or in substantially the same form, as that filed in this proceeding as Exhibit E of Exhibit C-1.

3. On or before December 31, 1965, Antoni Truck Lines, a corporation, may assume payment of outstanding obligations, and may issue not to exceed \$100,000 par value of its capital stock, at not less than par, for the purposes specified in the application as amended.

4. Antoni Truck Lines, a corporation, on or before December 31, 1965, for the purposes specified in this proceeding, may issue an Installment Note in the principal amount of not to exceed \$55,173.48, and may execute a Security Agreement. Such documents shall be in the same form, or in substantially the same form, as those filed in this proceeding as Exhibit K and Exhibit L, respectively.

5. Antoni Truck Lines, a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

6. Within thirty days after the consummation of the transfer herein authorized, Antoni Truck Lines, a corporation, 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.

7. Antoni Truck Lines, a corporation, shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. 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.

8. On or before the end of the third month after the consummation of the transfer as herein authorized, Antoni Truck Lines, a corporation, shall cause to be filed with the Commission in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

9. This application, as amended, insofar as it seeks authority for the execution of a Lease of Motor Vehicle Equipment and a Temporary Lease Agreement, is dismissed without prejudice.

10. This order shall become effective when Antoni Truck Lines, a corporation, has paid the fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$56.

Dated at San Francisco, California, this 15th day of JUNE, 1965.

Fredrick B. Holdcraft
President
George T. Trover
Augusta
William B. Bernard
Commissioners

