

Decision No. 70584

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 GOULD TRANSPORTATION CO., INC., a  
 California corporation to sell and  
 OERTLY BROS. TRUCKING CO., a  
 California corporation, to purchase  
 a highway common carrier operating  
 right for the transportation of  
 property pursuant to Sections 851-853  
 of the California Public Utilities  
 Code.

Application No. 47841  
 (Filed August 23, 1965)  
 (Amended January 11, 1966)

O P I N I O N

In this application, Oertly Bros. Trucking Co., (buyer), a California corporation, of 12891 Nelson Street, Garden Grove, California, requests authority to purchase, and Gould Transportation Co., Inc., (seller), a corporation, requests authority to sell its highway common carrier certificate authorizing the transportation of general commodities between points in the Los Angeles Basin Territory, pursuant to Sections 851-853 of the Public Utilities Code. A certified copy of the Articles of Incorporation of the buyer is on file with this Commission in Application No. 46683, filed May 28, 1964.

The certificate to be transferred was issued to Gould by Decision No. 54862, dated April 16, 1957, in Application No. 36288, as amended by Decision No. 55153, dated June 18, 1957, in Application No. 36288, Decision No. 55517, dated September 3, 1957, in Application No. 36288, Decision No. 61586, dated February 28, 1961, in Application No. 42343, and Decision No. 63066, dated January 9, 1962, in Application No. 42343. Seller also has permits issued by this Commission.

Oertly is presently engaged in intrastate commerce as a highway common carrier in the transportation of general and special commodities between various points and places in the State of California as set forth in Decision No. 67471, in Application No. 46683, dated July 7, 1964, and in Decision No. 60750, dated September 13, 1960, as amended by Decision No. 61411, dated January 24, 1961, in Application No. 41954. Oertly also operates as a permitted carrier pursuant to authority issued by this Commission.

The consideration for the sale of the certificate and the good will of the seller is the sum of \$20,000, of which \$2,000 is for operating authority and \$18,000 for good will. It is to be payable \$3,000 cash, as a down payment, and the balance of \$17,000 in equal monthly installments of \$300, with interest at the rate of 6 percent per annum, evidenced by a promissory note and secured by a deed of trust on real property.

Applicant Gould is desirous of disposing of the authority herein described because Joseph Gould and Jack Gould, president and vice president, respectively, and sole stockholders of Gould Transportation Co., Inc., wish to retire from the for-hire transportation business as their health will not allow them to continue with the rigors of the operation.

At its request Gould's operating authority was suspended as of April 26, 1965.

Applicants, by amendment, allege that on or about December 14, 1965, on the Commission's own motion, there was instituted an investigation into the operations, rates and practices of Gould Transportation Co., Inc. (Case No. 8316); that as a result of said investigation the staff of the Commission is interested in the instant application and would oppose authorization of such sale until after a decision has been made by the Commission in Case No. 8316.

Applicant Gould agrees, therefore, that if such sale is authorized it will not raise that fact as a defense to the payment of fines, if any should be imposed by the Commission in the decision to be rendered in Case No. 8316.

The balance sheet attached to the application shows buyer Oertly reports \$413,026.69 total assets as of October 31, 1964, and revenue for 12 months ending October 31, 1964, of \$1,696,037.76, and for six months ending June 30, 1965, of \$341,082. Also attached to the application is buyer's equipment list describing 94 units.

Buyer Oertly proposes to maintain the rules and rates contained in Western Motor Tariff Bureau, Inc., W. J. Knoell, Issuing Officer, Exception Sheet 1A, Rail Station List 1A, Distance Table No. 5, Scope of Operations and Participating Carrier Tariff No. 100, Local Joint & Proportional Freight & Express Tariff No. 109, Tariff No. 110 Rail Pickup & Delivery Limits and Local Joint & Proportional Freight & Express Tariff No. 111.

No protests to the application have been received. The Commission finds that the proposed transfer would not be adverse to the public interest and that issuance of the requested promissory note should be authorized. A public hearing is not necessary. The application will be granted.

The money, property or labor 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.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

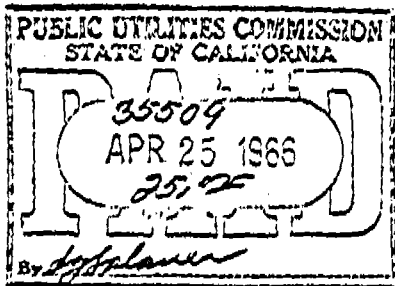
1. On or before September 1, 1966, Gould Transportation Co., Inc., may sell and transfer, and Oertly Bros. Trucking Co. may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Oertly shall notify the 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. Oertly 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Oertly Bros. Trucking Co. 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.

5. To the extent any duplication of operative rights may exist by reason of the transfer herein authorized, such operative rights may not be separated to permit Oertly Bros. Trucking Co. to sell or transfer one certificate authority and retain another certificate authority to perform the same service.

6. The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of APRIL, 1966.



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President  
George L. Grover  
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William L. Burns  
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Augusta  
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Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

-5- Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.