

ORIGINAL

Decision No. 75456

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
)
 DALE C. HANSEN, an individual doing)
 business as MODERN TRANSPORTATION,)
 to transfer a certificate of public)
 convenience and necessity to BROOKS)
 TERMINAL COMPANY, a California cor-)
 poration, and of BROOKS TERMINAL)
 COMPANY, a California corporation,)
 to acquire said certificate of public)
 convenience and necessity.)

Application No. 50841
(Filed January 27, 1969)

O P I N I O N

Dale C. Hansen requests authority to sell and transfer, and Brooks Terminal Company requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The operative right was granted by Decision No. 50995, dated January 18, 1955, in Application No. 35127, and by Decision No. 53064, dated May 15, 1956, in Application No. 35974, as amended by Decision No. 53553, dated August 7, 1956, and authorizes the transportation of general commodities with limited exceptions between points in the San Francisco Territory.

The sales agreement also includes the transfer of certain interstate authority and an appropriate application has been filed with the Interstate Commerce Commission. The agreed cash consideration for the intrastate and interstate operative rights is \$22,500.

Applicant buyer is presently operating as a radial highway common carrier within 150 miles of the City of Oakland. It owns and operates six units of equipment and as of September 30, 1968, indicated a net worth in the amount of \$16,157.

It is alleged that applicant seller desires to discontinue his certificated service and to operate instead under his radial highway common carrier permit so as to offer his prime shippers a more specialized service.

Brooks Terminal Company is hereby placed 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 holder 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.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1969, Dale C. Hansen may sell and transfer, and Brooks Terminal Company may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Brooks Terminal Company 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. Brooks Terminal Company 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. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Brooks Terminal Company 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. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate, the transfer of which is hereby authorized. Applicant is placed on notice that, if it accepts such certificate, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.

6. Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform

System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 18th day of MARCH, 1969.

William J. Quinn
President
Augusta
John P. Monissey
Thomas Moran
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.