

Decision No. ~~78487~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CARL P. KREIFELS, an individual, doing business as GENEVA TRANSFER & DRAYAGE CO., to transfer a certificate of public convenience and necessity to JAMES R. MULLENS, an individual, HOWARD W. HESTER, an individual, and BERNARD J. GLASER, an individual, doing business as a partnership under the fictitious name of ACTION DRAYAGE CO. and of JAMES R. MULLENS, HOWARD W. HESTER and BERNARD J. GLASER, individuals, doing business as a partnership under the fictitious name of ACTION DRAYAGE CO. to acquire said certificate of public convenience and necessity.

Application No. 52433
(Filed February 4, 1971)

O P I N I O N

Carl P. Kreifels, doing business as Geneva Transfer & Drayage Co., requests authority to sell and transfer, and James R. Mullens, Howard W. Hester and Bernard J. Glaser, a partnership doing business as Action Drayage Co., request authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 45499, dated March 27, 1951, in Application No. 30449, as amended by Decision No. 45647, dated May 1, 1951, and authorizes the transportation of specified commodities between various points within the state, and is the subject of a coextensive Certificate of Registration issued by the Interstate Commerce Commission in Docket No. MC-98021, Sub-No. 1. The agreed cash consideration is \$6,000. Applicant buyers

are presently engaged in the transportation of property pursuant to a radial highway common carrier permit and a highway contract carrier permit. As of September 30, 1970, applicant purchasers indicated a net worth in the amount of \$30,777.

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

James R. Mullens, Howard W. Hester and Bernard J. Glaser are 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1971, Carl P. Kreifels may sell and transfer, and James R. Mullens, Howard W. Hester and Bernard J. Glaser may purchase and acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchasers 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. Purchasers shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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, purchasers 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 transfer herein authorized is consummated, purchasers shall file a written acceptance of the certificate herein granted. Purchasers are placed on notice that, if they accept the certificate of public convenience and necessity

herein granted, they 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-F.

6. Purchasers shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

7. Purchasers shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchasers elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 30th day of MARCH, 1971.

[Signature]
Chairman
[Signature]
Vernon L. Sturgeon
[Signature]
Commissioners