

ORIGINAL

Decision No. 78951

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CLYDE E. GUSS, an individual)
doing business as GUSS FREIGHT)
DELIVERY, for approval of transfer)
of certificate of public conven-)
ience and necessity to operate as)
a highway common carrier of general)
commodities presently issued in)
his name as an individual to GUSS)
FREIGHT DELIVERY, INC., a California)
corporation.)

Application No. 52551
(Filed April 13, 1971)

O P I N I O N

In this application Guss Freight Delivery, Inc., a California corporation, buyer, requests authority to acquire, and Clyde E. Guss, an individual doing business as Guss Freight Delivery, requests authority to transfer the highway common carrier certificate held by Clyde E. Guss.

The certificate was issued by Decision No. 54593, dated February 25, 1957, in Application No. 35967, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547.

The applicants certify that a copy of the application has been served on the California Trucking Association. The buyer has filed a certified copy of its Articles of Incorporation with the application. A balance sheet of the seller, dated December 31, 1970, is attached to the application and describes assets of \$35,000.00.

The buyer does not hold any certificated authority from this Commission and commenced its legal existence on July 10, 1970. The character of the business performed by the applicant/seller is the hauling of general commodities. The area served and to be served commences in the Long Beach-Los Angeles Harbor with the western boundary on Crenshaw Boulevard to Colorado Boulevard in Glendale-Pasadena, California, thence easterly along Colorado Boulevard to Highway 39, thence southerly to the Pacific Ocean. The area to be served is bounded on the south by the Pacific Ocean.

The personal property to be transferred from applicant/seller to applicant/buyer consists of miscellaneous trucks as follows:

- 1960 Ford Truck, #F60CR49095, Van, Owned, License W62825;
- 1964 Ford Truck, #F60AR522479, Van, Owned, License W63971;
- 1966 Ford Truck, #N61LAU566517, Stake, Owned, License W63900;
- 1966 Ford Truck, #F60CR860983, Stake, Owned, License X77927;
- 1969 Ford Truck, #F61DRF60556, Van, Owned, License X40600;
- 1969 Ford Truck, #FE5YRF76329, Stake, Owned, License Y41158;
- 1960 International Tractor, E8414G, TRCT, Owned, License Y32326;
- 1966 Ford Tractor, #C80FU865849, TRCT, Owned, Y48995;
- 1934 GMC Semi, #5436754, Trailer, Owned, License WC9557;
- 1954 SPCNS Full, #5436755, Trailer, Owned, License WC9556

All of the stock of the corporation is to be issued to Clyde E. Guss for a period of time after which it is contemplated that the stock will be transferred to certain employees of the corporation. Clyde E. Guss is to receive 1800 shares of stock with a par value of \$10 per share. In consideration of his receipt of said shares, certain assets of the sole proprietorship will be transferred to the applicant corporation.

No change in service, area, or rates are to be affected by this transfer. Competing common carriers are not affected since the transferee will do business in the same manner as has transferor except that the transferee corporation contemplates being party to through routes and/or joint rates or fares.

There has been no suspension or discontinuance of service by transferor within the last three years.

Amendment to the application filed on June 8, 1971, alleges that applicant/seller also holds authority to operate in interstate and foreign commerce pursuant to a certificate of public convenience and necessity issued by the Interstate Commerce Commission in Docket No. MC 96711 (Sub. No. 1) issued to Clyde E. Guss which is to be transferred to the buyer.

Copies of the application have been served in accordance with the Commission's procedural rules. No protests or objections to the transfer have been received in opposition to the application. A public hearing is not deemed necessary.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. The application will be granted.

The money, property or labor to be procured or paid for by the issue of the stock and 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.

Guss Freight Delivery, Inc., a California corporation, 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.

O R D E R

IT IS ORDERED that:

1. Within six months after the effective date of this order, Clyde E. Guss, an individual doing business as Guss Freight Delivery, is authorized, subject to the conditions of this order, to sell and transfer its certificate of public convenience and necessity set forth in Decision No. 54593, dated February 25, 1957, in Application No. 35967, as amended by Decision No. 74082, dated May 7, 1968, in Application No. 48547, and registered with the Interstate Commerce Commission in Docket No. MC 96711 (Sub. No. 1) and Guss Freight Delivery, Inc., a California corporation, is hereby authorized to acquire said properties.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Guss Freight Delivery, Inc., 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. On or before the end of the third month after the consummation of the transfer as herein authorized, Guss Freight Delivery, Inc., a California 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.

5. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. Purchaser 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-F.

6. Purchaser 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.

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

8. Guss Freight Delivery, Inc., is authorized to issue stock in the manner hereinabove set forth.

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

Dated at San Francisco, California, this 27th day of JULY, 1971.

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

William L. Sturgeon Chairman
[Signature]
[Signature]

Commissioners