

ORIGINAL

Decision No. 85775

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of: GILBOY, INC., a California )  
 corporation for Authority to )  
 purchase Certificate of Highway )  
 Common Carrier Operating Rights )  
 for the Transportation of Motion )  
 Picture Film and Accessories )  
 together with personal assets of )  
 WILLIAM P. BROWN, JR., and ROBERT )  
 F. BROWN dba BEEKAY FILM DELIVERY.)

Application No. 56219  
 (Filed January 22, 1976)

INTERIM OPINION

William P. Brown Jr., and Robert F. Brown, a partnership, doing business as Beekay Film Delivery (sellers) request authority to sell and transfer and Gilboy, Inc., a California corporation, (purchaser) requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a highway common carrier and certain equipment.

The certificate was granted by Decision 40302, dated May 20, 1947, in Application 28193, and restated and transferred to the partnership by Decision 60033, dated May 3, 1960, in Application 42075. The certificate authorizes transportation of motion picture film, and motion picture accessories and commodities necessary or incidental to the exhibition of motion pictures between various points in Los Angeles County and a point in Riverside County.

Applicant purchaser presently holds certificates of public convenience and necessity issued by the following decisions authorizing operations as a highway common carrier for transportation of commodities, generally similar to those covered by the authority requested to be transferred, within Los Angeles County and points contiguous thereto. These authorities or portions thereof were

transferred to purchaser and amended by subsequent Commission decisions.

1. Decision 26558, dated November 25, 1933, in Application 19071.
2. Decision 27254, dated August 6, 1934, in Application 19534.
3. Decision 38807, dated April 2, 1946, in Application 27903.
4. Decision 38809, dated April 2, 1946, in Application 27089.
5. Decision 39006, dated May 21, 1946, in Application 27268.
6. Decision 85240, dated December 16, 1975, in Application 55950.

Sellers desire to transfer their certificate and equipment because of the limited size and rising costs of such operation, and the intention of one of the partners to retire from the business after many years in operation. Applicants believe that the proposed transfer will be in the public interest in that purchaser, by virtue of its knowledge of the business, its present operation in Los Angeles County, and areas contiguous to that of the sellers, is capable of and will perform comparable service at the same tariffs and cost as sellers.

The equipment to be transferred consists of two highway vehicles and various office furniture, fixtures and supplies.

Consideration for the entire transaction is \$35,000 of which \$5,000 is allocated for the highway and office equipment and supplies and the balance of \$30,000 for the certificate.

Purchaser proposes to adopt seller's tariff which sets forth rates and rules governing operations under the certificate to be transferred. Purchaser's balance sheet of September 30, 1975

shows total assets of \$205,227 and total liabilities of \$6,564 for a net worth of almost \$200,000.

The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. The relief is requested in order to secure just, speedy and inexpensive determination of the issues presented. A copy of the application was forwarded to the California Trucking Association and notice of the filing of the application was made in the Commission's Calendar of January 29, 1976.

After consideration, the Commission finds that the requested deviation from its Rules of Practice and Procedure should be authorized; and that the proposed transfer of the certificate and equipment referred to in the application would not be adverse to the public interest provided that such authority and the authorities presently held by the purchaser are restated. A public hearing is not necessary.

By Decision 85240, the Commission ordered purchaser to submit a proposed in-lieu certificate of public convenience and necessity to reflect the highway common carrier authority held by it and that authorized to be transferred to it by said decision. That portion of the Commission order in Decision 85240 will be rescinded and restated in this order to include the transfer authorized herein.

After review and approval, a final order will be issued revoking the authority presently held by purchaser and the authority acquired from sellers, and establishing an in-lieu certificate encompassing such operating authorities.

Applicant purchaser is 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. This monopoly feature may be modified or cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

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

INTERIM ORDER

IT IS ORDERED that:

1. On or before October 1, 1976, William P. Brown Jr., and Robert F. Brown, a partnership, may sell and transfer the operative rights and equipment referred to in the application to Gilboy, Inc., a California corporation.

2. Within thirty days after the transfer, the purchaser shall file with the Commission written acceptance of the certificate and true copies of the bills of sale or other instruments of transfer.

3. Purchaser shall amend or reissue the tariff on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filing 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 transfer. 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 80-Series. Failure to comply with the provisions of General Order 80-Series may result in a cancellation of the operating authority granted by this decision.

4. Within ninety days after the date of this order, purchaser shall submit to this Commission a proposed in-lieu certificate of

public convenience and necessity which shall consist of a restatement of the highway common carrier authority presently held by purchaser and the certificate herein authorized to be transferred to purchaser.

5. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

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 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.


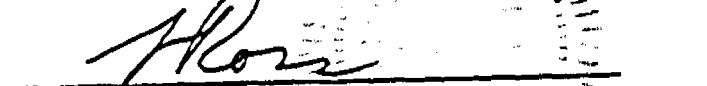

8. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

9. Ordering Paragraph 5 of Decision 85240 is rescinded.

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

Dated at San Francisco, California, this 14 day of May, 1976.

  
President

  
  
  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.