

Decision No. 89827 JAN 4 1979

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of (a) PRESTO DELIVERY SERVICE,)
INC., for authority to execute)
and deliver a Security Agreement)
encumbering its highway common)
carrier certificate of public)
convenience and necessity, and)
(b) E Z WAY, INC. for authority)
to control PRESTO DELIVERY SERV-)
ICE, INC.))

Application No. 57815
(Filed January 19, 1978)
(Amended November 9, 1978)

O P I N I O N

E Z Way, Inc., a California corporation, which presently holds a highway carrier permit issued by this Commission, seeks authority to acquire control of Presto Delivery Service, Inc., a California corporation, by purchase of all of its issued and outstanding corporate stock in accordance with the provisions of Section 854 of the Public Utilities Code.

Presto Delivery Service, Inc., operates as a highway common carrier pursuant to a certificate of public convenience and necessity granted by Decision 83726, dated January 28, 1975, in Application 53360. The certificate authorizes transportation of general commodities, with the usual exclusions, between all points and places in the Los Angeles Territory, between said territory and the Los Angeles Basin Territory and between the Los Angeles Basin Territory and the San Diego Territory and intermediate points on Interstate Highways 5 and 15. The certificate is registered with the Interstate Commerce Commission under Docket No. MC-99642 (Sub No.2). Presto Delivery Service, Inc. also holds highway carrier permits issued by this Commission in File T-5,676.

The control will be accomplished by the purchase of the thirty (30) issued and outstanding shares of Presto Delivery Service, Inc.'s common stock, fifteen (15) shares from the Estate of David H. Gould, deceased, and fifteen (15) shares from the Estate of Eugene I. Hirsch, deceased. The purchase price of said shares is \$200,000 which is to be paid with \$162,500 in cash and by the issuance by E Z Way, Inc. of two promissory notes in substantially the same form as shown in Exhibit B of the application, in the amount of \$18,750 each, payable to Ruth Gould and Miriam Hirsch, surviving spouses of the deceased stockholders, respectively, and bearing interest at the rate of 9% per annum. The said notes are to be secured by a security agreement in substantially the same form as shown in Exhibit B of the application encumbering the highway common carrier certificate, and certain operating equipment of Presto Delivery Service, Inc. as described in Exhibit C of the amendment to the application.

Applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require wide dissemination of the application. Copies of the application have been sent to the California Trucking Association and the Highway Carriers Association, and notice of the filing of the application and amendment thereto was made in the Commission's Daily Calendar of January 23 and November 15, 1978, respectively. No protests to the application, as amended, have been received.

After consideration, the Commission finds that control of Presto Delivery Service, Inc. by E Z Way, Inc., and the encumbrance of the certificate and equipment held by Presto Delivery Service, Inc., as requested in the amended application, would not be adverse to the public interest. A public hearing is not necessary.

The Commission concludes that the acquisition of control of Presto Delivery Service, Inc. and the encumbrance of its certificate and equipment, as requested in the amended application, should be authorized and that the authorization should not be construed as a finding of the value of the capital stock of Presto Delivery Service, Inc.

O R D E R

IT IS ORDERED that:

1. E Z Way, Inc. may control Presto Delivery Service, Inc., a California corporation.
2. Within ninety days after the date hereof, E Z Way, Inc. and Presto Delivery Service, Inc. shall file reports informing the Commission whether or not the control authorized has been completed.
3. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.
4. Presto Delivery Service, Inc. may execute and deliver to the Estate of David H. Gould, deceased, Ruth Gould, the Estate of Eugene I. Hirsch, deceased, and Miriam Hirsch, jointly and severally, encumbering documents in substantially the same form and for the same purposes specified in the application.

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5. The authority granted by this order to execute and deliver encumbering documents will become effective when the issuer has paid the minimum fees prescribed by Section 1904(b) of the Public Utilities Code, which fees are \$50 each for a total of \$100. In all other respects, the effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 4th day of JANUARY, 1979.

Robert Betman
President
Richard W. Hoyle
Clara J. Debra

Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
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BY [Signature]