

Decision No. 12823

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 B. W. BELYEA  
 to sell and BELYEA TRUCK COMPANY, INC.  
 to purchase the automobile freight  
 line operated between the City of  
 Los Angeles proper on the one hand and  
 Los Angeles Harbor on the other.

Application No. 17843

Rex W. Boston, for applicant.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Commission is asked to authorize B. W. Belyea to transfer the operative right and properties hereinafter referred to, to Belyea Truck Company, Inc. and to authorize said company to issue \$26,725.00 par value of its common capital stock.

It is of record that B. W. Belyea, an individual, is now and has for a number of years last past, among other lines of business, been engaged in the operation of a common carrier automotive freight service between the City of Los Angeles proper on the one hand and Los Angeles Harbor (Wilmington and San Pedro) on the other hand, under authority acquired by virtue of operations conducted in good faith prior to May 1, 1917 and recognized by Decision No. 12823, dated November 14, 1923, in Case No. 1871.

Applicant B. W. Belyea has concluded that his common carrier service business could be conducted more economically if such were transferred to a corporation. To this end he has caused to be

organized the Belyea Truck Company, Inc., which has an authorized common stock issue of 3,000 shares of the par value of \$25.00 each. The corporation proposes to issue 1,066 shares of stock to B. W. Belyea in payment for the aforesaid operative right and certain truck and trailer equipment and to issue one share to each of its three incorporators.

Testimony shows that there will be transferred to the corporation seven trucks, three Fords, four dollies and thirteen trailers. Harold J. Lane, insurance broker, adjuster and appraiser, testified that in his opinion the trucks and trailers which B. W. Belyea intends to transfer to the Belyea Truck Company, Inc. have a present value of \$24,150.00. The trucks and trailers which it is proposed to transfer to the corporation are those that are ordinarily used by B. W. Belyea in his common carrier freight operations. B. W. Belyea testified that in his opinion he has expended at least \$2,500.00 to have his operative right established and recognized and to defend the same from time to time.

For 1930 B. W. Belyea reported his revenue from his common carrier operations at \$110,406.02 and his revenue from his non-common carrier operations at \$438,858.48. His non-common carrier activities consist of construction and rigging work, pipeline operations, general contracting, excavation work and similar lines of activities. At present his common carrier and non-common carrier activities are all being conducted under the one general head and in the firm name of Belyea Truck Company, a sole proprietorship. It is the plan of B. W. Belyea, as herein stated, to transfer the operative right and certain truck and trailer equipment to a corporation in exchange for common stock. The common stock will be owned by B. W. Belyea. No change in the management of the common carrier operations will result from

the aforementioned transfer. Such transfer, however, will result in lower insurance costs and the maintenance of a complete set of cost records relating to the common carrier operations.

We wish to place the purchaser upon notice that operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

#### ORDER

Application having been made to the Railroad Commission for an order authorizing the transfer of the operative right referred to in the foregoing opinion and the issue by Belyea Truck Company, Inc. of \$26,725.00 par value of common capital stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the transfer of the operative right and automotive equipment referred to in the foregoing opinion should be granted, that the money, property or labor to be procured or paid for by the issue of \$26,725.00 of stock by Belyea Truck Company, Inc. is reasonably required by said company for the purposes herein stated and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. B. W. Belyea may, on or before February 1, 1932, transfer to the Belyea Truck Company, Inc. that certain operative right authorizing the operation of a common carrier automotive truck service between the City of Los Angeles on the one hand and Los Angeles Harbor on the other hand acquired by virtue of operations conducted in good faith prior to May 1, 1917 and recognized by Decision No. 12823, dated November 14,

1923, in Case No. 1871, together with the equipment described in Exhibit "D" filed in this proceeding.

2. Belyea Truck Company, Inc. may, on or before February 1, 1932, acquire the aforesaid operative right and equipment and issue in payment therefor, at its par value, \$26,650.00 par value of its common capital stock.

3. Belyea Truck Company, Inc. may issue and sell, on or before February 1, 1932, for cash at not less than their par value, three shares (\$75.00 par value) of its common capital stock to its incorporators and use the proceeds to pay organization expenses.

4. The authority herein granted is subject to the following conditions:

(a) B. W. Belyea shall within thirty (30) days from the date of the transfer of the operative right herein authorized withdraw tariffs and time schedules on file in his name with the Railroad Commission covering service under the operative right herein authorized to be transferred and Belyea Truck Company, Inc., a corporation, shall file in its own name tariffs and time schedules, said time schedules and tariffs to contain the same rates, rules and regulations now maintained by B. W. Belyea, or rates and time schedules satisfactory to the Railroad Commission.

(b) The rights and privileges herein authorized to be transferred may not be sold, leased, transferred or assigned or service thereunder discontinued by Belyea Truck Company, Inc., unless written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

(c) No vehicle may be operated by applicant Belyea Truck Company, Inc. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

(d) Belyea Truck Company, Inc. shall file with the Railroad Commission, on or before February 25, 1932, a

report such as is required by the Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

(e) The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 21st day of December, 1931.

C. J. Lacey  
Leon Whidby  
W. A. Cus  
W. B. Harris  
Fred G. Stewart  
Commissioners.