

Decision No. 26477

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
O. C. BUTLER and HAROLD A. GRUNDY)
to sell, and Pacific Transportation)
and Warehouse Co., Inc. to purchase)
an automobile freight line operated)
between Los Angeles and Wilmington,)
California.)

ORIGINAL

Application No. 19107

Sparling & Teel, by Maurice C. Sparling,
for applicants.

BY THE COMMISSION:

OPINION

In this application O. C. Butler and Harold A. Grundy have applied to the Railroad Commission for permission to sell and transfer certain properties to Pacific Transportation and Warehouse Co., Inc.

Pacific Transportation and Warehouse Co. Inc. joins in the application and proposes to issue and sell 500 shares of its common stock for \$500.00 to finance the purchase price.

It appears that O. C. Butler and Harold A. Grundy, co-partners doing business under the firm name and style of Pacific Transportation Company, are engaged primarily in the business of transporting freight by auto trucks between Los Angeles and the steamship wharves and docks at Wilmington and San Pedro, operating under authority granted by the Commission by Decision No. 14404, dated December 27, 1924, in Application No. 9627. Incidental to their auto truck business they operate a warehouse at #825 East Sixty-second Street, Los Angeles.

In a statement filed with the Commission on October 16, 1933, the co-partners report their assets and liabilities as of August 31, 1933 as follows:-

<u>A S S E T S</u>		
<u>CURRENT:</u>		
Cash	\$262.41	
Accounts receivable.....	3,756.31	
Freight-advanced	<u>2,026.05</u>	\$ 6,044.77
<u>FIXED:</u>		
Land and building	45,200.00	
Furniture and fixtures.....	2,814.68	
Machinery and equipment	2,635.45	
Trucks and trailers	<u>53,301.54</u>	103,951.67
<u>DEFERRED:</u>		
Prepaid insurance	167.86	
Prepaid taxes	<u>532.98</u>	700.84
Total assets		<u>\$110,697.28</u>
<u>LIABILITIES</u>		
<u>CURRENT:</u>		
Notes payable	\$ 317.36	
Contracts payable	651.42	
Accounts payable	2,560.66	
Accounts payable (Partner).....	<u>669.43</u>	\$ 4,198.87
<u>ACCRUALS:</u>		
Taxes		3,431.40
<u>RESERVES:</u>		
Depreciation-building	6,289.20	
Furniture & fixtures ...	1,463.68	
Machinery & equipment	1,741.45	
Trucks and trailers	<u>46,701.54</u>	56,195.87
<u>DEFERRED:</u>		
Mortgage payable	15,000.00	
Trust deed payable	<u>6,627.00</u>	21,627.00
<u>CAPITAL ACCOUNTS:</u>		
Surplus		<u>25,244.14</u>
Total liabilities.....		<u>\$110,697.28</u>

For 1932 the operating revenues of the partnership are reported at \$49,708.86.

It seems that O. C. Butler and Harold A. Grundy on or about August 3, 1933 caused the organization of Pacific Transportation and Warehouse Co. Inc. and that thereafter, on September 21, 1933, they entered into an agreement with the corporation whereby they agreed to transfer to it for \$500.00 in cash, their trucks, real estate,

warehouse facilities, furniture, furnishings, fixtures, accounts receivable and all other assets, together with the goodwill and operative rights, subject to existing obligations. A copy of the agreement was filed with the application herein as Exhibit "A" and a description of the real estate and rolling equipment to be transferred was filed in the proceeding on October 16, 1933.

To finance the purchase price, Pacific Transportation and Warehouse Co. Inc. proposes to issue and sell to O. C. Butler and Harold A. Grundy for \$500.00 in cash, all of its capital stock consisting of 500 no par value common shares. In but few cases has the Commission authorized the issue of no par stock at less than \$25.00 a share. In this application, however, because of the relatively few shares involved and because of the excess of the assets to be acquired over the liabilities to be assumed, we will permit the issue as requested. Though the stock is being sold for \$500.00, the corporation through this transaction receives in effect more than \$500.00 for its stock. It also receives the equity of the partnership in the properties. In opening its books the corporation should assign to the stock a value equal to the equity in the properties acquired.

In making the order in this proceeding, 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.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of property and the issue of stock, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that the money, property or labor to be procured or paid for is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED, that O. C. Butler and Harold A. Grundy, co-partners doing business under the firm name and style of Pacific Transportation Company, be, and they hereby are, authorized to transfer to Pacific Transportation and Warehouse Co. Inc., subject to outstanding liabilities, the properties described in this application and the certificate of public convenience and necessity granted to them by Decision No. 14404, dated December 27, 1924, such transfer to be in accordance with the terms of the agreement dated September 21, 1933, filed as Exhibit "A".

IT IS HEREBY FURTHER ORDERED, that Pacific Transportation and Warehouse Co. Inc. be, and it hereby is, authorized to issue 500 shares of its common capital stock for not less than \$500.00 in cash to finance in part the purchase price.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
2. O. C. Butler and Harold A. Grundy shall immediately unite with Pacific Transportation and Warehouse Co. Inc. in common

supplement to their tariffs on file with the Commission, O. C. Butler and Harold A. Grundy on the one hand withdrawing, and Pacific Transportation and Warehouse Co. Inc. on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. O. C. Butler and Harold A. Grundy shall immediately withdraw time schedules filed in their names with the Railroad Commission and Pacific Transportation and Warehouse Co. Inc. shall immediately file, in duplicate, in its own name schedules covering service heretofore given by O. C. Butler and Harold A. Grundy, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in their names or time schedules satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
5. No vehicle may be operated by Pacific Transportation and Warehouse Co. 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.
6. Pacific Transportation and Warehouse Co. Inc. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, within thirty (30) days thereafter, a verified report, as

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

7. The authority herein granted will become effective fifteen (15) days after the date hereof.

DATED at San Francisco, California, this 30th day of October, 1933.

P. C. Leary
Leon A. Dwyer
W. A. Cunn
M. B. Harris
M. H. Anderson

Commissioners.