

Decision No. 38087

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of JOSEPH B. COLLINGS and CHARLES A. PEARSON, individually, and as co-partners doing business as Anaheim Truck & Transfer Co., to Sell and CHARLES A. PEARSON to Purchase Operative Rights and to Encumber Real Property of Common Carrier.

Application
No. 26811

BY THE COMMISSION:

O P I N I O N

This is an application by Joseph B. Collings and Charles A. Pearson for an order of the Railroad Commission authorizing the transfer of operative rights and properties, the execution of a deed of trust and the issue of a note in the amount of \$85,000.

The application shows that Joseph B. Collings and Charles A. Pearson, co-partners doing business under the firm name and style of Anaheim Truck & Transfer Co., are engaged in conducting a general trucking business at Anaheim and a highway common carrier service for the transportation of certain commodities under operative rights established by Decision No. 17504, dated October 21, 1926; and, as co-partners doing business under the firm name and style of Orange County Transfer Co., of conducting a general trucking business at Brea. The revenues and expenses for the year ending December 31, 1944, have been reported as follows:

	<u>Anaheim Truck & Trans. Co.</u>	<u>Orange County Transfer Co.</u>
Intercity - common carrier revenues	\$226,618	\$ -
Other revenue	<u>48,253</u>	<u>63,062</u>
Total	274,871	63,062
Expenses	<u>223,489</u>	<u>62,035</u>
Profit	<u>\$ 51,382</u>	<u>\$ 1,027</u>

It appears that Joseph B. Collings desires to retire and that arrangements have been made for the dissolution of the partnerships and the transfer by said Collings of his undivided one-half interest in the assets to Charles A. Pearson, under the terms of an agreement, dated May 1, 1945, for the sum of \$105,000, payable \$20,000 in cash upon the execution of the agreement and \$5,000 on January 2, 1946 and \$5,000 semi-annually thereafter, with interest on all deferred payments at the rate of 5 per cent per annum, the deferred balance of \$85,000 to be evidenced by a note secured by a deed of trust. (Exhibit D.)

The cost of the real and personal properties of the partnerships and the present value of the land and appraised value of the personal property, along with the ledger balances of the current items, as of April 30, 1945, are reported in Exhibit "A" as follows:

	<u>Cost</u>	<u>Appraised Value</u>
Real and personal property	\$177,174.66	\$138,528.49
Cash and other current assets	<u>47,417.56</u>	<u>47,417.56</u>
Total	224,592.22	185,946.05
Liabilities (Current items)	<u>18,839.00</u>	<u>18,839.00</u>
Balance	<u>\$205,753.22</u>	<u>\$167,107.05</u>

No value is assigned to the operative rights and according to financial statements filed with the application no value is included for them on the balance sheet of the partnership.

Under the terms of the agreement between applicants, (Exhibit A), Pearson agrees to assume, pay and discharge all outstanding liabilities excepting that the two parties will bear equally any undetermined or contingent income tax liability.

In authorizing applicant Pearson to acquire a one-half interest in these properties under the terms of an agreement calling for a purchase price of \$105,000, we are making no finding of value of the operative rights and wish to place applicant upon notice that operative rights do not constitute a class of property which should 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, 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 in the number of rights which may be given. We believe that applicant Pearson should record on his books the ledger balances for the properties appearing on the books of the partnerships.

O R D E R

The Commission having considered this application and being of the opinion that a public hearing is not necessary, that the requests of applicants should be granted, as herein

provided, and that the money, property or labor to be procured or paid for through the issue of the note is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Joseph B. Collings is authorized to transfer to Charles A. Pearson his undivided one-half interest in and to the operative rights and properties referred to in this application, such transfer to be in accordance with the terms of the agreement dated May 1, 1945, filed in this proceeding as Exhibit "A".
2. Joseph B. Collings and Charles A. Pearson shall comply with the rules of the Commission's General Order No. 30 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty days from the effective date of this order and on not less than five days' notice to the public and to the Commission.
3. Charles A. Pearson, on or before August 30, 1945, may execute a deed of trust in, or substantially in, the same form as that filed in this proceeding as Exhibit "D" and may issue a note in the principal amount of \$85,000, payable in semi-annual installments of not less than \$5,000 with interest at the rate of five per cent per annum to finance in part the cost of the interest which Joseph B. Collings is herein authorized to transfer.
4. Within thirty (30) days after the issue of the note Charles A. Pearson shall file with the Commission a report thereof as required by this Commission's General Order No. 24-A.

5. The authority herein granted will become effective when Charles A. Pearson has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Eighty-five (\$85.00) Dollars.

Dated at San Francisco, California, this 27th day of July, 1945.

David Rudner
Justice F. Coles

Frank W. Carr

David Lowell
Commissioners

