

Decision No. 40278

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HARRY S. PAYNE, doing business as)
 PACIFIC MOTOR EXPRESS, for permission)
 to sell and transfer operative rights)
 and WILLIAM F. MC VEIGH, doing business)
 as PIONEER TRANSFER, to acquire said)
 operative rights for the transportation)
 of freight between Los Angeles, Corona,)
 Temecula, and intermediate points.)
 -----)

ORIGINAL

Application
No. 28370

OPINION AND ORDER

This is an application for an order of the Public Utilities Commission authorizing Harry S. Payne to transfer highway common carrier rights and properties to William F. McVeigh.

Harry S. Payne, doing business under the firm name and style of Pacific Motor Express, is engaged, among other things, in the transportation of property generally between Los Angeles and Corona and Corona and Elsinore and Temecula. He is the holder of certificates of public convenience and necessity granted by this Commission and also of radial highway common carrier and highway contract carrier permits. For the year 1946 he reported revenues from his certificated operations at \$19,831.41 and from his other operations at \$41,397.51, a total of \$61,228.92.

The present application shows that applicant Payne desires to withdraw from the transportation business and accordingly has made arrangements to sell his highway common carrier rights and properties to William F. McVeigh. Said properties include operative rights described in the Commission's Decision No. 21779, dated November 12, 1929, in Application No. 15516, and also certain interstate rights, and one truck and tractor and office equipment and supplies.

The agreed sales price is the sum of \$19,750 of which the purchaser agreed to pay \$1,750 upon execution of the agreement of sale, and the balance, plus interest at the rate of 4½% per annum, in monthly installments of \$375, or more, on the 15th day of the month following the month in which this Commission authorizes the transfer, and \$375, or more, a month thereafter for a period of thirty months, and thereafter in monthly installments of \$225, or more. It is intended that said McVeigh will execute a mortgage of chattels on the personal property to secure the payment of the deferred balances. A copy of the agreement, dated March 1, 1947, and a copy of the proposed mortgage of chattels have been filed in this proceeding.

The purchaser, William F. McVeigh, doing business under the firm name and style of Pioneer Transfer, is engaged in operating a highway common carrier service between Corona and Los Angeles and Corona and Los Angeles and San Pedro Harbor. He reports his net worth, as of March 31, 1947, at \$19,994, and his carrier operating revenues for 1946 at \$31,388 with a net carrier income, after operating expenses, taxes and depreciation, of \$2,901. He reports net income from non-carrier operations at \$4,994.

The application shows that it is McVeigh's intention, upon acquiring the properties and business, to adopt the tariffs heretofore filed by Payne and the rates, rules and regulations, together with the time tables, now in effect. Applicant McVeigh is hereby placed upon 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, 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.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the execution of the agreement referred to herein and the mortgage of chattels 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. Harry S. Payne, after the effective date hereof and on or before July 31, 1947, may sell and transfer to William F. McVeigh, and William F. McVeigh may purchase and acquire, the highway common carrier operative rights and properties referred to herein, said sale and transfer to be in accordance with the terms and conditions of the agreement dated March 1, 1947.
2. William F. McVeigh, after the effective date hereof and on or before July 31, 1947, may execute a mortgage of chattels in, or substantially in, the same form as that filed in this proceeding and may incur the payment of indebtedness of not exceeding \$19,750 under said agreement of March 1, 1947, for the purpose of acquiring said rights and properties.
3. Applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, appro-

private tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

4. The authority herein granted shall not be construed to be a finding of value of the properties herein authorized to be transferred.

5. Within thirty days after acquiring said rights and properties under the authority herein granted, William F. McVeigh shall file with the Commission a statement showing the journal entries used to record such acquisition on his books.

6. The authority herein granted will become effective when William F. McVeigh has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco California, this 20th day of May 1947.

Harold Kule
Justice J. Cooney
Just Powell
A. B. Johnson
Lawrence Patten

Commissioners

