

ORIGINAL

Decision No. 41479

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:  
(a) Citizens' National Trust & Savings Bank of Los Angeles, as Executor of the Estate of B. W. Belyea, deceased, to sell, and B-P Corporation, a corporation, to purchase Automobile Freight Lines operated between Los Angeles and Los Angeles Harbor, California; and (b) B-P Corporation to issue Shares of its Common Capital Stock; and (c) B-P Corporation, a corporation, for Authority to issue Promissory Notes.

Application  
No. 29195

Walter O. Schell and Arthur H. Glanz, for B-P Corporation; Martin C. Colvin, for Citizens' National Trust & Savings Bank of Los Angeles, Executor of the Estate of B. W. Belyea, deceased.

O P I N I O N

In this application, the Commission is asked to enter its order (1) authorizing Citizens' National Trust & Savings Bank of Los Angeles, as Executor of the Estate of B. W. Belyea, deceased, to sell, and B-P Corporation to purchase operative rights recognized by Decision No. 12823, dated November 14, 1923, and subsequently transferred to the Executor under Decision No. 41079, dated December 22, 1947, together with certain automotive equipment and business, and (2) authorizing B-P Corporation to issue, for the purposes hereafter stated, \$25,000 par value of stock, \$235,000 face amount of unsecured 4% non-negotiable notes, and \$180,000 face amount of 4½% notes secured by a mortgage of chattels.

B. W. Belyea, deceased, was engaged in transportation and allied activities, conducting business under the name of Belyea Truck Company, a sole proprietorship; Alameda Trailer Works, a sole proprietorship; Pacific Crane & Rigging, Inc., and Belyea Truck Company, Inc. Upon his death the Executor began the dissolution of Belyea Truck Company, Inc. and Pacific Crane & Rigging, Inc., and thereafter the properties of both of those corporations (at least so far as they are involved in this application) passed to the Executor. It is of record that B. W. Belyea, operating under the name of Belyea Truck Company, possessed interstate operative rights authorizing the transportation of heavy machinery and allied commodities over irregular routes in the major portion of California, all of the States of Arizona and Nevada, and all of that portion of the State of New Mexico south and east of Highway 54, and general commodities between Los Angeles Harbor and the Los Angeles commercial zone. He also held California highway contract carrier and radial highway common carrier permits. The Belyea Truck Company, Inc. was, and the Executor is now, the owner of certain operative rights to engage in the operation of a common carrier automotive freight service between the City of Los Angeles on the one hand, and Los Angeles Harbor on the other, under the authority originally acquired by virtue of operations conducted in good faith prior to May 1, 1917, by B. W. Belyea and recognized by Decision No. 12823, dated November 14, 1923, in Case No. 1871, and subsequently transferred to Belyea Truck Company, Inc. in Decision No. 24328, dated December 21, 1931, and by said Belyea Truck Company, Inc. transferred to Citizens' National Trust & Savings Bank of Los Angeles, as Executor of the Estate of B. W. Belyea, deceased, pursuant to Decision No. 41079, dated December 22, 1947.

The Executor offered for sale the real and personal properties used by B. W. Belyea during his lifetime in the conduct of his transportation business, the properties formerly owned by the Belyea Truck Company, Inc., and the properties of Pacific Crane & Rigging, Inc. The sale of the properties for \$815,000 to K. (Kathleen) Sims as trustee was confirmed by the Superior Court of the State of California, in and for the County of Los Angeles. It was the intention of the persons represented by K. (Kathleen) Sims to discontinue the transportation business conducted by the Estate.

Following the sale of the properties, Robert D. Belyea and Harry Coon, (both of whom for many years were employees of B. W. Belyea,) Henry Bigge and Highland Builders, Inc. agreed to acquire the properties from K. (Kathleen) Sims for \$982,500. Of this sum they have paid \$650,000 in cash and have delivered a note for \$332,500, secured by a mortgage on the real property owned by the Belyea estate. Fifteen percent of the cash was advanced by Harry Coon, 15% by Robert D. Belyea, 35% by Highland Builders, Inc. and 35% by Bigge Drayage Company, assignee of the rights of Henry Bigge. They have concluded to segregate the carrier and non-carrier properties. To accomplish this end, they have caused to be organized two corporations, to wit: (a) Belyea-Pacific Corporation and (b) B-P Corporation. To the former they propose to assign the non-carrier properties including the real property used as a terminal in the carrier operations. Subject to the approval of the Interstate Commerce Commission and the Public Utilities Commission, they will assign to the B-P Corporation the carrier properties used in interstate and intrastate operations. The Belyea-Pacific Corporation, the non-carrier

corporation, will be responsible for providing \$652,500 of the purchase price, and the B-P Corporation, the carrier corporation, \$330,000. To finance in part such undertaking, and provide itself with \$110,000 of working capital, B-P Corporation asks permission to issue 5,000 shares of capital stock at \$5 per share--\$25,000, \$235,000 of unsecured non-negotiable notes, and a \$180,000 4½% secured note. The stock will be purchased by the following:

Harry Coon	15%	750 shares
Robert D. Belyea	15%	750 shares
Highland Builders, Inc.	35%	1,750 shares
Bigge Drayage Company	35%	1,750 shares

B-P Corporation is a corporation organized under the laws of California. It has an authorized stock issue of 100,000 shares, of the aggregate par value of \$500,000.

The purchasers of the stock have further agreed to make available to the B-P Corporation \$235,000, as follows:

Harry Coon	15%	\$35,250
Robert D. Belyea	15%	35,250
Highland Builders, Inc.	35%	82,250
Bigge Drayage Company	35%	82,250

The \$235,000 will be evidenced by B-P Corporation's 4½% unsecured non-negotiable notes. The payment of the notes will be subordinated to the payment of the \$180,000 4½% installment note payable to Bank of America National Trust and Savings Association. The principal of the latter note is payable in forty-eight equal monthly installments. The interest due on unpaid balances is payable monthly. The payment of the note will be secured by a mortgage of chattels on all of the company's truck equipment which, according to an appraiser for the bank, has a value of \$466,000.

In Exhibit "L" applicants report that based on 1947 operations, B-P Corporation revenues and expenses would have been as follows:

Operating revenue	<u>\$1,174,863.30</u>
Expenses:	
Operation and maintenance	\$ 837,650.99
Depreciation expense	40,657.72
Operating license & taxes	97,213.78
Operating rents - net	8,041.08
Total expenses	<u>\$ 967,481.41</u>
Net operating income	\$ 207,381.89
Other income:	
Net income non-carrier	4,595.83
Gross income	<u>\$ 211,977.72</u>
Income deductions:	
Other income deductions	<u>7,200.00</u>
Net income before income taxes	<u>\$ 204,777.72</u>

It is estimated that under the new management, administrative expenses will be reduced by about \$65,000.

B-P Corporation 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 action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

The Commission having considered the evidence submitted at the hearing had on this application before Examiner Fankhauser, and it being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock and notes herein authorized is reasonably required by B-P Corporation for the purposes herein stated, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Citizens' National Trust & Savings Bank of Los Angeles, as Executor of the Estate of B. W. Belyea, deceased, after the effective date hereof and on or before August 31, 1948, may sell, and B-P Corporation may purchase the operative rights to engage in the operations of a common carrier automotive freight service between the City of Los Angeles on the one hand, and Los Angeles Harbor on the other hand, under authority originally acquired by virtue of operations conducted in good faith prior to May 1, 1917, by B. W. Belyea and recognized by Decision No. 12823, dated November 14, 1923, and subsequently transferred to the Executor under Decision No. 41079, dated December 22, 1947, together with the automotive equipment used in the conduct of the business performed under said operative rights.

2. B-P Corporation, after the effective date hereof and on or before August 31, 1948, may issue and sell, for the purposes herein stated, at \$5 per share, 5,000 shares of its

capital stock, said shares of stock to be sold to the following parties:

Harry Coon	750 shares
Robert D. Belyea	750 shares
Highland Builders, Inc.	1,750 shares
Bigge Drayage Company	1,750 shares

3. B-P Corporation, after the effective date hereof and on or before August 31, 1948, may issue to Bank of America National Trust and Savings Association its promissory note in the principal sum of not exceeding \$180,000, said note to be payable in forty-eight equal monthly installments together with interest at the rate of 4½% per annum on the unpaid balance, said interest to be payable with, and in addition to, installments of principal. To secure the payment of said note, B-P Corporation may execute a mortgage of chattels in, or substantially in, the same form as Exhibit "G" on file in this application.

4. B-P Corporation, after the effective date hereof and on or before August 31, 1948, may issue its unsecured non-negotiable notes in the aggregate principal amount of \$235,000, payable twelve months or more after date of issuance and bearing interest at the rate of 4% per annum from the date of the notes until said notes are paid, said notes to be issued to the following:

Harry Coon	\$35,250
Robert D. Belyea	35,250
Highland Builders, Inc.	82,250
Bigge Drayage Company	82,250

Said notes are to be in, or substantially in, the same form as the note on file in this application as Exhibit "F".

5. B-P Corporation shall use the proceeds realized through the issue of the stock and notes herein authorized to pay

for properties being acquired from Citizens' National Trust & Savings Bank of Los Angeles, Executor of the Estate of B. W. Belyea, deceased, or its successor in interest, and to establish and maintain its transportation service.

6. 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, appropriate 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.

7. B-P Corporation shall, within sixty (60) days after the transfer of said operative rights and issue of stock and notes, file with the Commission the following:

(a) A copy of its journal entries used to record the acquisition of the properties acquired through the issue of the stock and notes herein authorized;

(b) A statement showing the number of shares of stock issued under the authority herein granted, to whom said shares were issued, and the consideration received for said shares of stock;

(c) A copy of each note issued under the authority herein granted;

(d) A copy of the mortgage of chattels executed under the authority herein granted;

(e) A copy of the agreement under the terms of which the payment of said \$235,000 face amount of notes is subordinated to the payment of the \$180,000 note issued to Bank of America National Trust and Savings Association.



8. The authority herein granted will become effective when B-P Corporation has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is four hundred fifteen (\$415.00) dollars.

Dated at San Francisco, California, this 20<sup>th</sup> day of April, 1948.

R. J. Anderson  
Justice F. G. Gower  
Frank Russell  
Samuel P. Potter  
Commissioners

