

Decision No. 41553

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CRULES R. CHEEK, as Trustee of the
estate of DANA EDGAR KETCHUM, doing
business as ATLAS TRUCK LINES, Bank-
rupt, to sell and EDWARD R. POOLE,
SR., doing business as POOLE TRUCKING
COMPANY, to purchase a highway common
carrier operating right between Los
Angeles and Los Angeles Harbor District,
California.

Application No. 29270

O P I N I O N

In this proceeding Crules R. Cheek as Trustee of the estate of Dana E. Ketchum doing business as Atlas Truck Lines, bankrupt, requests authority to sell and transfer to Edward R. Poole, Sr. doing business as Poole Trucking Company and the latter requests authority to purchase from the former a prescriptive highway common carrier operative right authorizing operations between Los Angeles and the Los Angeles Harbor District. No physical property is involved in the proposed transfer.

The right involved was established by E. R. Ketchum and acquired by Dana E. Ketchum and Edgar E. Ketchum, partners, pursuant to the authority of the Commission's Decision No. 33148 and Decision No. 33921 both in Application No. 23486.

According to the application Crules R. Cheek, is the duly appointed, qualified and acting Trustee of the estate of Dana E. Ketchum, bankrupt, which matter is now pending in the District Court of the United States, Southern District of California. Said Dana E. Ketchum was adjudged bankrupt by said court on or about February 10, 1948. The application states that on or about

February 8, 1948, E. R. Ketchum transferred all his right, title and interest in and to said operative right to Dana E. Ketchum. Following the adjudication of bankruptcy of said Dana E. Ketchum and the appointment of applicant Cheek as Trustee of his estate, applicant Cheek sold all the right, title and interest of the bankrupt estate in and to the operative right to applicant Edward R. Poole, Sr., such sale having been confirmed by the court above referred to on March 8, 1948. A certified copy of the order confirming such sale is attached to the application as Exhibit "A". Also attached to the application as Exhibit "B" is an assignment whereby E. R. Ketchum confirms the assignment of all his interest in the operative right involved to applicant Cheek as Trustee, and whereby he authorizes said applicant Cheek as Trustee to sell and transfer his interest as a part of the estate of Dana E. Ketchum, bankrupt.

The consideration to be paid by applicant Poole for said operative right is shown to be \$2,000, all of which represents the value of the operative right. Applicant Poole is presently engaged in the transportation of property for hire pursuant to permits issued by the Public Utilities Commission and, according to the application, has sufficient equipment and finances to continue the operations heretofore provided by E. R. and Dana E. Ketchum.

After full consideration of the request of applicants, it appears that the proposed transfer is not adverse to the public interest and should be authorized. No public hearing is necessary.

Edward R. Poole, Sr. 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.

O R D E R

An application having been filed requesting authority to transfer operative rights, and the Commission now being fully informed in the premises,

IT IS ORDERED:

(1) That on or after the effective date hereof and on or before July 1, 1948, Crules R. Cheek, Trustee of the estate of Dana E. Ketchum, bankrupt, may transfer to Edward R. Poole, Sr. and the latter may acquire from the former, the operative rights referred to in the foregoing opinion, and thereafter conduct operations pursuant to said operative rights.

(2) That appropriate tariffs and time tables as required by General Orders Nos. 80 and 93-A shall be filed in triplicate on or after the effective date hereof, to be made effective on not less than 5 days' notice to the Commission and the public.

(3) That within 30 days after the consummation of the transfer herein authorized, Crules R. Cheek shall notify the Commission in writing of that fact and shall within said period file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect the transfer authorized.

The effective date of this order shall be 20 days from
the date hereof.

Dated at Los Angeles, California, this 4th
day of May, 1948.

R. Z. Friedman
Justice F. Craven
Walter Powell
Harold H. Kula
Kenneth L. Lott
COMMISSIONERS