

Decision No. 45604**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 G. A. BRINKMAN, doing business as)
 POMONA TANK LINE, to sell, and of)
 BOYSIE E. DAY, HATTON W. DAY, and)
 GRADY D. DAY, copartners, to pur-) Application No. 32117
 chase certificate of public conven-)
 ience and necessity authorizing)
 services as a highway common carrier)
 of freight, pursuant to Section 51)
 of the Public Utilities Act.)

O P I N I O N

This is an application for an order authorizing the transfer by G. A. Brinkman, doing business as Pomona Tank Line, of a certificate of public convenience and necessity granted by Decision No. 42849, dated May 10, 1949, on Application No. 29840⁽¹⁾, to Boysie E. Day, Hatton W. Day, and Grady D. Day, together with certain motor vehicle equipment, land, and other assets.

The application shows that, under an agreement dated January 9, 1951, the consideration to be paid for the motor vehicle equipment, land, and other assets, is \$15,000, payable \$6,500 upon the execution of the agreement, and the balance of \$8,500 payable at the rate of \$50 per month beginning February 9, 1951, and continuing to April 9, 1951, and thereafter at the rate of \$175 per month beginning May 9, 1951, and continuing until the balance has been completely paid.

(1) The above certificate was amended by Decision No. 42996, dated June 14, 1949.

It is further proposed that the purchasers will execute and deliver to the seller a promissory note secured by a deed of trust on the land described in the agreement of sale. The foregoing agreement, promissory note, and deed of trust are attached to the application. No value is being assigned to the operating rights, the entire \$15,000 being paid for the tangible assets hereinabove mentioned.

It is alleged that the \$15,000 represents the book value of the assets proposed to be transferred, which is set up as the original cost less depreciation. Submitted with the application is a profit and loss statement for the seller for the calendar year 1950, and a combined financial statement of the three partners who constitute the buyer. An examination of this last statement indicates that these partners are financially able to conduct the proposed operation. It is further alleged that the seller is now unable to devote his full time to the management and operation of the Pomona Tank Line, and that it is his desire to retire from this business and engage in other activities. The purchasers are three brothers who are presently engaged in separate businesses. It is proposed that one of these brothers will discontinue his present business and devote his full time to the conduct of the trucking business. Further allegations are to the effect that the purchasers have had considerable experience in operating trucking equipment.

After a full consideration of this matter we are of the opinion that G. A. Brinkman, an individual, doing business as Pomona Tank Line, should be permitted to transfer the

operative rights and assets hereinabove described to Boysie E. Day, Hatton W. Day, and Grady D. Day. The proposed transfer will not be adverse to the public interest. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

O R D E R

Application as above entitled having been filed, the Commission being fully advised in the premises, and hereby finding it to be in the public interest,

IT IS ORDERED:

(1) That G. A. Brinkman, an individual, doing business as Pomona Tank Line, after the effective date hereof may transfer to Boysie E. Day, Hatton W. Day, and Grady D. Day, the tangible property above described and the certificate of public convenience and necessity granted by Decision No. 42849, dated May 10, 1949, on Application No. 29840, as amended by Decision No. 42996, dated June 14, 1949, on Application No. 29840, and Boysie E. Day, Hatton W. Day, and Grady D. Day, are hereby authorized to purchase said operative rights and tangible property and thereafter to operate thereunder, subject to the conditions hereinafter set out.

(2) That Boysie E. Day, Hatton W. Day and Grady D. Day, after the effective date hereof and on or before September 30, 1951, for the purpose of financing in part the cost of the properties herein authorized to be transferred, may issue a note in the principal amount of not exceeding \$6,500 and may execute a deed of trust to secure the payment of the same, which note and deed of

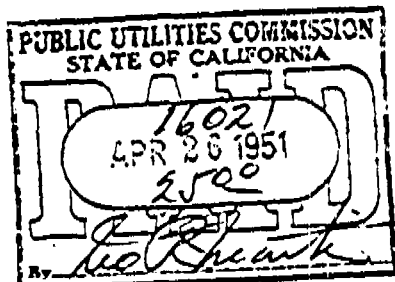
trust shall be in, or substantially in, the same form as those filed in this proceeding as Exhibit C and Exhibit D, respectively, it being the opinion of the Commission that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by said purchasers for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

(3) That Boysie E. Day, Hatton W. Day, and Grady D. Day, should this transfer be effected, 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 schedules within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public.

(4) That Boysie E. Day, Hatton W. Day and Grady D. Day shall file with the Commission a copy of the note and a copy of the deed of trust as actually executed under the authority herein granted, said filing to be made on or before thirty (30) days after the date of each of said instruments.

(5) That the authority herein granted will become effective when Boysie E. Day, Hatton W. Day and Grady D. Day have 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 24th day of April, 1951.



Handwritten signatures of R. J. [unclear], Harold P. [unclear], and others, with the word COMMISSIONERS printed below.