

ORIGINAL

Decision No. 46509

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ELLIS J. FIELDS to purchase partner-)
 ship interest of Louis Menzio and of)
 Louis Menzio to sell to Ellis J. Fields :
 partnership interest in highway com-) Application
 mon carrier certificate presently : No. 32914
 being operated by Menzio and Fields)
 as partners under the firm name and)
 style of RESORT FREIGHT LINES.)
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O P I N I O N

Ellis J. Fields and Louis Menzio, applicants herein, are engaged in business as partners under the name of Resort Freight Lines and as such are operating a highway common carrier service between Calistoga and points in Lake County.⁽¹⁾ In this application they report that Menzio desires to withdraw from the business due to ill health, and they ask the Commission to make its order authorizing him to sell his partnership interest to Fields.

The agreed purchase price for the partnership interest is the sum of \$12,475.78, of which \$2,975.78 will be paid in cash upon consummation of the sale and the balance will be covered by a promissory note to be issued by Fields in the principal amount of \$9,500, payable in monthly installments of \$200 with interest on the unpaid

(1) Applicants' properties include operative rights acquired pursuant to authority granted by Decision No. 37932, dated May 27, 1945, in Application No. 26677, and certain real property, a frame warehouse building, two International trucks, and equipment and office facilities. Applicants report their revenues and expenses for the last three years as follows:

	<u>1948</u>	<u>1949</u>	<u>1950</u>
Revenues-	\$	\$	\$
Freight revenues	11,099	11,581	11,234
Other revenues-net	<u>2,991</u>	<u>4,249</u>	<u>2,934</u>
Total revenues	15,090	15,830	14,168
Expenses	<u>5,447</u>	<u>5,437</u>	<u>5,866</u>
Net income	<u>\$ 9,643</u>	<u>\$10,393</u>	<u>\$ 8,302</u>

balance at the rate of 5% per annum, said note to be secured by a deed of trust.

The application shows that Fields is, and for some time has been, actively managing the line, that he intends to continue to conduct the operation, and that he has sufficient resources to carry on the business. It therefore appears that the proposed transfer will not be adverse to the public interest.

Applicant Fields 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 as to the number of rights which may be given.

O R D E R

The Commission having considered the above entitled matter, and being of the opinion that a public hearing thereon is not necessary; that the application should be granted, as herein provided; that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by applicant Fields for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Louis Menzio, after the effective date hereof and on or before March 31, 1952, may sell and transfer his partnership interest in the Resort Freight Lines to Ellis J. Fields, such sale to be made in accordance with the terms and conditions set forth in this application.

2. Ellis J. Fields, after the effective date hereof and on or before March 31, 1952, may execute a deed of trust in substantially the same form as that filed in this proceeding, and may issue, in part payment for said partnership interest, his promissory note in the principal amount of \$9,500, payable as indicated in the opinion preceding this order.

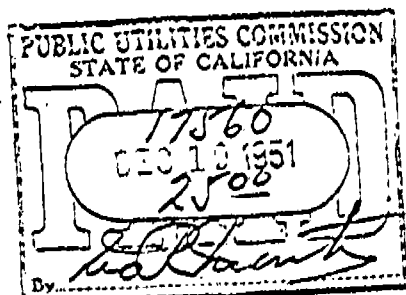
3. The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

4. On not less than five (5) days' notice to the Commission and to the public, 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.

5. Ellis J. Fields shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective when Ellis J. Fields has paid the minimum fee prescribed by Section 1904 of the Public Utilities Code, which fee is twenty-five (\$25.00) dollars.

Dated at San Francisco, California, this 11th day of December, 1951.



[Signature]
President
[Signature]
[Signature]
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Commissioners