

Decision No. 46787

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BELYEA TRUCK CO.,)	
a corporation, to sell and BELYEA	:	
TRUCK CO., a partnership, to purchase)	
intrastate operative rights of the	:	Application
seller; and application of BELYEA)	No. 33143
TRUCK CO., a corporation, to	:	
abandon operations.)	
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O P I N I O N

Belyea Truck Co., a corporation originally named B-P Corporation, hereinafter referred to as Seller, is engaged in business in California as a highway common carrier and as a petroleum irregular route carrier, and also is engaged in interstate commerce. In this application it reports that it proposes to liquidate its affairs and to distribute its assets and it asks permission to transfer all its operative rights and properties to Eldred Northrup, J. L. Belyea, Bigge Drayage Co., a corporation, and John MacLeod, who thereafter plan to continue the operations as a partnership.

Seller was organized under the laws of the State of California on March 9, 1948, with an authorized capital stock of 100,000 shares of the par value of \$5 each. The application shows that presently 4,880 of said shares are outstanding and are held by the following:

Highland Corporation	31.27 %
Bigge Drayage Co.	31.27
R. D. Belyea	13.095
Idonna W. Coon	13.095
J. L. Belyea	7.17
Donald MacIsaac	<u>4.10</u>
Total	<u>100.000%</u>

It appears that Highland Corporation is engaged in business as a general contractor and is owned by members of the MacLeod family. Bigge Drayage Co. is a highway common carrier and operates in California, Idaho, Nevada and Oregon.

According to the application, R. D. Belyea, Idonna W. Coon and Donald MacIsaac desire to withdraw from the business of Seller. Their conclusion to do so has resulted in agreements looking toward the dissolution of Seller, the acquisition by the members of the partnership of the interests of the retiring shareholders and the placing of such interests in the new partnership, along with the contribution of new capital by Eldred Northrup and the transfer of the distributive share of Highland Corporation to John MacLeod.

Under the plans adopted to carry out the liquidation of Seller and the transfer of rights and properties to the partnership, Seller will sell all its interstate and intrastate operative rights to the partnership for \$12,500, will pay its current liabilities out of current assets, and thereafter will distribute the remaining cash, accounts receivable and other assets to its stockholders in proportion to their stock holdings, subject to the remaining liabilities.⁽¹⁾ It appears that the plans call for the payment to R. D. Belyea, Idonna W. Coon and Donald MacIsaac of the sum of \$157,250 to be provided from Seller's current assets and, if needed, with cash to be provided by John MacLeod and Bigge Drayage Co., and for the payment to Highland

(1)

Seller also holds certificates of public convenience and necessity issued by the Interstate Commerce Commission. That Commission by its order dated January 24, 1952, authorized the purchase of Seller's operative rights and properties by the partnership. The order of the Commission will become effective on March 5, 1952, but applicants have made written request to change the effective date to March 1, 1952, so as to permit the accounting aspects of the transaction to be concluded on the first day of the calendar month.

Corporation of \$162,356 to be provided by John MacLeod. The partnership will assume Seller's liabilities, other than its current liabilities.

Seller has filed financial statements in this proceeding showing its operating revenues at \$1,137,626 and its net income at \$53,321 for the year 1949, its operating revenues at \$1,280,107 and its net income at \$73,574 for the year 1950, and its operating revenues at \$798,933 and its net income at \$51,371 for the first six months of 1951. It has reported its assets and liabilities as of June 30, 1951, as follows:

Assets

Current assets -		
Cash and deposits	\$ 66,988.67	
Accounts receivable	259,059.56	
Materials and supplies	<u>79,057.52</u>	
Total current assets		\$405,105.75
Tangible property -		
Carrier operating property	791,586.83	
Less-depreciation reserve	<u>683,260.95</u>	
Net tangible property		108,325.88
Intangible property		40,256.33
Investment securities		2,140.00
Deferred debits		<u>23,700.48</u>
	Total	<u>\$579,528.44</u>

Liabilities

Current liabilities -		
Accounts payable	\$ 67,166.76	
Accrued taxes	112,724.45	
Other current liabilities	<u>4,347.58</u>	
Total current liabilities		\$184,238.79
Equipment obligations		159,502.30
Common capital stock		24,400.00
Surplus		<u>211,387.35</u>
	Total	<u>\$579,528.44</u>

The application shows that members of the partnership have been interested in the affairs of Seller for some years and that they are in a position to provide the necessary working capital. The liquidated interests to be acquired by the partnership include the

carrier operative property now owned by Seller and it appears that there will be no change in the service to the public. Accordingly, we are of the opinion that the proposed transaction will not be adverse to the public interest and should be authorized.

In making the order in this proceeding we wish to place the members of the partnership 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 and that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Belyea Truck Co., a corporation, after the effective date hereof and on or before June 30, 1952, may sell and transfer to Eldred Northrup, J. L. Belyea, Bigge Drayage Co. and John MacLeod, a partnership, its operative properties and operative rights acquired under authority granted by Decisions No. 41479, dated April 20, 1948, No. 42623, dated March 15, 1949, and No. 44363, dated June 20, 1950, and said partnership may assume the payment of Seller's liabilities, all in accordance with the terms outlined in this proceeding. Belyea Truck Co.,

a corporation, thereafter may discontinue its public utility operations.

2. On not less than five (5) days' notice to the Commission and to the public, Eldred Northrup, J. L. Belyea, Bigge Drayage Co. and John MacLeod shall comply with the provisions of General Order No. 80 and Part 14 of General Order No. 99 by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables.

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

4. Eldred Northrup, J. L. Belyea, Bigge Drayage Co. and John MacLeod, within sixty (60) days after acquiring said rights and properties, shall file with the Commission a copy of each and every journal entry used to record such acquisition on their books of account.

4. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 26th day of February, 1952.

R. F. [Signature]
President
Justice F. [Signature]
Harold P. [Signature]
Edwin E. [Signature]
Commissioners