

ORIGINAL

Decision No. 47256

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of (a))	
S.DEL GEORGE, doing business as Paul	:	
Alley Livestock Transportation Co., to)	
sell, and (b) GREENWALT BROS. INC., to	:	Application
purchase the California motor carrier)	No. 32893
rights of (a) authorizing transporta-	:	
tion of livestock, upon and along routes,)	
and between points hereinafter described.	:	
-----)	

O P I N I O N

This is an application for an order authorizing S. Del George, doing business as Paul Alley Livestock Transportation Co., hereinafter referred to as Seller, to transfer operative rights and properties to Greenwalt Bros. Inc., hereinafter referred to as the corporation.

The operative rights proposed to be transferred include those granted to Seller by the Commission by Decision No. 44523, dated July 11, 1950, permitting the transportation of livestock, except polo ponies, race horses and show horses unless said animals are being transported to or from rodeos and state or county fairs, upon an "on-call" basis, over the highways of the state as designated in said decision.⁽¹⁾ The physical properties included in the transaction consist of seven trucks, one pick-up, eight tractors and certain equipment, parts, supplies and office furnishings. The cost of the properties is reported at \$87,055 and the estimated

(1)
In addition, Seller operates between points in California and Arizona under a certificate granted by the Interstate Commerce Commission, and locally between points in Arizona. The transfers of the interstate rights and the Arizona rights have been approved.

present value at \$75,300, exclusive of the certificates of public convenience and necessity.

Seller reports that he desires to dispose of his highway carrier rights and properties so that he can devote his full time to his other interests and that he has made arrangements to sell the same to the corporation for the sum of \$85,000. Under the terms of the agreement between the two parties, as amended, the corporation will pay to Seller the sum of \$30,000 in cash, will pay to Seaboard Finance Company for the account of Seller approximately \$5,000, will assume the balance of approximately \$10,000 owing by Seller to Seaboard Finance Company, and will pay to Seller the remaining \$40,000 in monthly installments of \$1,000 with 7% simple interest. No indebtedness other than that payable to Seaboard Finance Company will be assumed by the corporation.

The corporation was organized on July 29, 1949, by Edward C. Greenwalt and Willard D. Greenwalt. According to information filed with the Commission, said Edward C. Greenwalt and Willard D. Greenwalt for many years have been engaged in trucking activities in southern California and elsewhere, and in operating a gasoline filling station and repair shop. It appears that they have caused the organization of the applicant corporation to take over their operations.

Exhibits filed in this proceeding show that the corporation has an authorized capital stock of 2,500 shares without par value, and that up to October 31, 1951, it had issued all of said shares for the purpose of financing its properties and assets. Its balance sheet shows its investment as of the end of October

in the total amount of \$95,299.63, an amount which had been paid or provided through current liabilities of \$16,247.37, contracts and chattel mortgages of \$32,421.84, and capital stock and surplus of \$46,630.42.

From a review of the application we are of the opinion that the proposed transfer will not be adverse to the public interest. It appears that the corporation financially is in a position to take over and continue the operations now performed by Seller and that an order should be entered granting applicants' requests. The issue of stock and the execution of contracts and chattel mortgages by the corporation were consummated prior to the filing of this application and no approval of the Commission is required with respect to them.

In making this order we wish to place applicants 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. S. Del George, doing business as Paul Alley Livestock Transportation Co., after the effective date hereof and on or before October 31, 1952, may transfer his operative rights and properties to Greenwalt Bros. Inc., such transfer to be made in accordance with the terms and conditions outlined in this application.

2. Greenwalt Bros. Inc., upon acquiring said operative rights and properties, may assume the payment of the indebtedness referred to in the agreement of sale filed in this proceeding as Exhibit 1, providing, among other things, for the assumption of indebtedness of not exceeding \$10,000 in favor of Seaboard Finance Company and the payment to Seller of approximately \$40,000 in monthly installments, as set forth in said agreement. The money, property or labor to be procured or paid for by such long-term indebtedness is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

3. 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 14 of General Order No. 99, by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables.

4. Greenwalt Bros. Inc., within sixty (60) days after acquiring said rights and properties, shall file with the Commission

a statement showing the amount of indebtedness actually assumed, the name of the payee and the date of repayment, and showing the amount of the indebtedness payable to S. Del George.

5. 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.

6. The authority herein granted will become effective when Greenwalt Bros. Inc. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code.

Dated at San Francisco, California, this 17th day of June, 1952.

R. E. [Signature]
President

Justin J. [Signature]
Harold [Signature]

[Signature]
[Signature]
Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
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By: [Signature]