

ORIGINAL

Decision No. 51160

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PACIFIC TRANSPORTATION AND WAREHOUSE )  
CO., INC., a corporation, to sell, )  
and J. B. SEARS, doing business as )  
SEARS TRUCKING, to purchase, a high- )  
way common carrier operating right )  
between Los Angeles and Los Angeles )  
Harbor. )

Application No. 36654

O P I N I O N

By Decision No. 14404, dated December 27, 1924, on Application No. 9627 (25 CRC 679), O. C. Butler and Harold A. Grundy, copartners, doing business as Pacific Transportation Company, were given authority to render an automotive truck service as a common carrier of property for compensation between the City of Los Angeles proper and steamship wharves and docks located at Los Angeles harbor, namely, Wilmington and San Pedro. By Decision No. 26477, dated October 30, 1933, on Application No. 19107, the above described rights were acquired by Pacific Transportation and Warehouse Co., Inc.

By the application herein, Pacific Transportation and Warehouse Co., Inc., referred to herein as seller, seeks authority to sell and transfer its operating right above described to J. B. Sears, an individual doing business as Sears Trucking, referred to herein as purchaser, for the sum of \$7,500.00, \$2,000.00 of which is payable on consummation of the transfer after its approval by this Commission, and the balance

of which is payable in installments over a specified period of years with interest on the unpaid balance at the rate of 5%<sup>(1)</sup> per annum. No property other than the operating rights is to be transferred.

It is alleged in the application that the seller proposes to discontinue the type of service it is rendering pursuant to the certificate, and that it is not a party to any through route or joint rates with any other carrier.

It is further alleged in the application that the purchaser has been engaged in the transportation of property for approximately 30 years and that such operations have been conducted by him as a permitted carrier under authority from this Commission and also as a private carrier.

The seller's financial condition is not shown except that it appears from Exhibit B on the application that it suffered a loss for the 11 months ending November 30, 1954.

The purchaser has 13 pieces of equipment consisting of tractors, trucks, trailers and semi-trailers<sup>(2)</sup> which will be available for use in the operations. It appears that he possesses the requisite financial resources to take over and operate the services here involved.<sup>(3)</sup>

The proposed transfer is not adverse to the public interest and it is our conclusion that the authority sought, including the authority for the purchaser to incur an indebtedness in the sum of \$5,500, should be granted. A public hearing is not necessary.

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- (1) Exhibit A on the application.  
(2) Exhibit C on the application.  
(3) Exhibit D on the application.

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

J. B. Sears 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 has considered the above-entitled matter and is of the opinion that a public hearing is not necessary, that the application should be granted as herein provided, that the money, property, or labor to be procured or paid for by the incurrence of the indebtedness herein authorized is reasonably required by the purchaser for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS ORDERED:

(1) That Pacific Transportation and Warehouse Co., Inc., a corporation, be, and it hereby is, authorized to sell and transfer to J. B. Sears the certificate of public convenience and necessity referred to above, and said J. B. Sears is hereby authorized to purchase and acquire said certificate and may pay therefore the sum of \$2,000.00 on or before the effective date of this order, and \$5,500.00 together with interest thereon at 5% per annum as provided in the agreement dated January 12, 1955, a copy of which is attached to the application and marked Exhibit A.

(2) That within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs and timetables on file with the Commission, naming rates, rules, regulations and schedules governing the common carrier operations here involved, to show that Pacific Transportation and Warehouse Co., Inc., has withdrawn or cancelled, and J. B. Sears has adopted or established as his own, said rates, rules, regulations and schedules.

(3) J. B. Sears shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted will become effective when J. B. Sears has paid the minimum fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$25.00.

Dated at San Francisco, California, this 1st day of March, 1955.

John E. Mitchell President  
Justin F. Casner  
Paulo L. Lutterer  
William H. Hosley

CO. OF SOLICITORS  
PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
5796  
MAR 3 - 1955  
25.  
BY [Signature]