

ORIGINAL

Decision No. 52044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GLEN D. NOLAN, an individual, doing business as COLMA DRAYAGE, to sell and transfer, and COLMA DRAYAGE, INC., a corporation, to purchase and acquire operative rights and operating equipment.) :) :) :) :) :) :)	Application No. 37116
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----- In the Matter of the Application, COLMA DRAYAGE, INC., a California corporation, for authority to issue shares of its capital stock. -----) :) :) :) :) :) :)	Application No. 37117
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O P I N I O N

In these proceedings the Commission is asked to enter its order authorizing Glen D. Nolan to transfer common carrier rights and properties to Colma Drayage, Inc., a corporation, and authorizing said corporation to issue \$46,000 par value of its common stock.

The applications show that Glen D. Nolan is engaged in the transportation of general commodities, with certain exceptions, within the San Francisco-East Bay Cartage Zone as a highway common carrier under a certificate of public convenience and necessity granted by the Commission by Decision No. 51045, dated January 25, 1955 in Application No. 35555. In the financial statement filed in this proceeding, applicant Nolan reports operating revenues of \$41,171 for the first quarter of 1955 with net income of \$7,406. He reports his net investment in land and improvements, 16 units of equipment, and furniture and office equipment at \$25,629.73, net after deducting the reserves for depreciation.

It appears that applicant Nolan now desires to conduct his operations under a corporate form of organization, that he has

organized Colma Drayage, Inc. and that he proposes to transfer to it his operative rights and equipment for the sum of \$35,629.73, of which \$10,000 represents the value assigned to the operative rights and \$25,629.73, the value assigned to the tangible property.

The new corporation proposes to issue to Glen D. Nolan, Beatrice L. Nolan, or either of them, \$46,000 par value of its common stock for the following purposes:

(a) Certificate of public convenience and necessity to operate as a highway common carrier, granted by Decision No. 51045 on January 25, 1955, in Application No. 35555, and operating equipment	\$35,629.73
(b) Cash in the sum of	9,691.07
(c) Cancellation of indebtedness to Glen D. Nolan for funds advanced for organization expenses	<u>679.20</u>
Total	\$46,000.00

Section 820 of the Public Utilities Code reads in part as follows:

"820. The commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right."

No representation is made of any sums paid by Glen D. Nolan to the state or to a political subdivision for his operative rights and, in the absence of any showing on that point, we cannot accept the \$10,000 value assigned to such rights as a proper base upon which to predicate an order authorizing the issue of stock. It therefore appears to us that the maximum amount of stock which we can authorize in this proceeding is the sum of \$36,000.

The applications indicate that there will be no change in the personnel currently operating and managing the business nor in

the service to be offered to the public. It appears that the new corporation will enter into its operations with cash working capital of approximately \$10,000 and, under the circumstances set forth in this proceeding, it appears to us that the transfer of the properties under the terms set forth in this decision will not be adverse to the public interest.

Applicants are hereby placed on 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.

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.

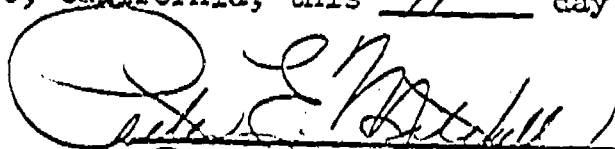
ORDER

The Commission having considered the above entitled matters and being of the opinion that a public hearing is not necessary, that the money, property or labor to be procured or paid for through the issue of \$36,000 of stock is reasonably required by applicant corporation 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,

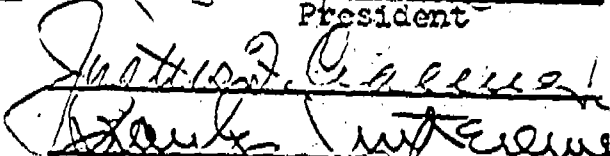
IT IS HEREBY ORDERED as follows:

1. Glen D. Nolan may transfer to Colma Drayage, Inc. on or before December 31, 1955, his highway common carrier operative rights and equipment..
2. Colma Drayage, Inc. may issue not exceeding \$36,000 par value of its common stock in payment for properties herein authorized to be transferred and for working cash and liquidation of indebtedness.
3. On not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved so as to show that Glen D. Nolan has withdrawn or canceled and Colma Drayage, Inc., a corporation, has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.
4. Colma Drayage, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.
5. Application No. 37117, insofar as it involves the issue of \$10,000 of stock in payment for operative rights, hereby is denied.
6. This order will become effective 20 days after the date hereof.

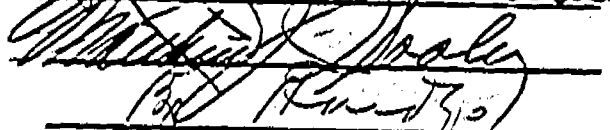
Dated at San Francisco, California, this 11th day of October, 1955.



President



Secretary



Commissioners