

Decision No. 52290**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 W. L. WARNER, an individual, doing)
 business as SACRAMENTO AUTO TRUCK CO.,) Application No. 37429
 to sell and MARK A. BOZAICH, an)
 individual, to buy a highway common)
 carrier certificate.)

O P I N I O N

W. L. Warner, doing business as Sacramento Auto Truck Co. and presently authorized to transport general commodities between Sacramento, Davis, Winters and Woodland requests authority to sell and transfer said operations to his son-in-law Mark A. Bozaich.

The agreed consideration is \$20,000 payable in monthly installments of \$200 with interest computed at the rate of 4 per cent per annum. The equipment is valued at \$7,574.50. Also to be transferred are 3-1/6 shares of stock in the Union Auto Freight Depot, Inc., which are valued at \$9,000. Intangibles amount to \$3,426. The operative rights are valued at \$500, which includes cost of acquisition plus filing fees.

As justification for the authority sought it is alleged that because of his age W. L. Warner wishes to retire and turn the business over to his son-in-law who has been actively engaged in the operation. Financial exhibits attached to the application indicate that the purchase price can be paid from the income of the business. A sum of \$450 per month which W. L. Warner has heretofore drawn as wages will be available to meet the \$200 monthly installments required by the sales agreement.

After consideration the Commission is of the opinion and

so finds that the proposed sale will not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the evidence of indebtedness herein authorized is reasonably required by applicant Bozaich for the purpose specified herein, and that such purpose is not in whole or in part, reasonably chargeable to operating expense or to income. 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. No authority is herein given to Mark A. Bozaich to place on his books any value for the operative rights he will acquire. A public hearing does not appear to be necessary.

Mark A. Bozaich 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, such rights 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

Application having been filed and the Commission being advised in the premises,

IT IS ORDERED:

(1) That after the effective date hereof and on or before March 15, 1956, W. L. Warner doing business as Sacramento Auto Truck Co. may sell and transfer and Mark A. Bozaich may purchase

and acquire the properties referred to and the operative rights set forth in Decisions Nos. 8377, 11300, 14714 in Applications Nos. 6271, 8432 and 10939.

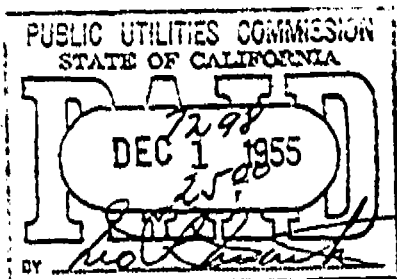
(2) That Mark A. Bozaich may incur indebtedness of \$20,000 in accordance with the terms of the sales agreement attached to the application as Exhibit A.

(3) That within thirty days after the consummation of the transfer herein authorized, applicants shall notify the Commission in writing of that fact, and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(4) That after the effective date hereof and on or before March 15, 1956, and on not less than five days' notice to the Commission and to the public, applicants shall amend tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier here involved to show that W. L. Warner has withdrawn and Mark A. Bozaich has adopted as his own said rates, rules and regulations.

(5) This order shall become effective when applicants have paid the fee of \$25.00 required by Section 1904 of the Public Utilities Code.

Dated at San Francisco, California, this 29th day of November, 1955.



John E. Mitchell
President
Justin D. Craven
Paul W. Craven
William J. Cook

Commissioners