

ORIGINAL

Decision No. 52860

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PHYLLIS M. PEARCE and FRANK
H. HIMMELMAN, copartners doing
business as ALTA FREIGHT AND
TRANSFER, to transfer certificates
of public convenience and necessity,
permits, and property to ALTA
FREIGHT AND TRANSFER, INC.,
a corporation, and to issue stock and
assume certain obligations.

Application
No. 37837

O P I N I O N

In this application the Commission is asked to make an order (1) authorizing Phyllis M. Pearce and Frank H. Himmelman, copartners doing business as Alta Freight and Transfer, to transfer certificates of public convenience and necessity and operative equipment to Alta Freight and Transfer, Inc., a corporation, and (2) authorizing Alta Freight and Transfer, Inc., to assume the payment of outstanding indebtedness and to issue \$17,800 par value of common stock.

Information before the Commission shows that the partners have been engaged in the transportation business for many years and that last year they were certificated to operate as highway common carriers for the transportation of general commodities, with certain exceptions, between all points and places in the San Francisco-East Bay Cartage Zone, and between San Mateo and San Jose and intermediate points on U. S. Highway 101 and 101 By-Pass and between Hayward and San Jose and intermediate points on State Highways 9 and 17. In addition, they have acquired permits and are conducting operations

as radial highway common carriers, household goods carriers, highway contract carriers and city carriers. In Exhibit D filed with the application they have reported their operating revenues for 1955 in the amount of \$126,702 and their net profit at \$22,118.

It appears that the partners now desire to incorporate their business and that they have organized Alta Freight and Transfer, Inc., to take over their operative rights and equipment and to continue the business now performed by them. The corporation, in doing so, proposes to assume the payment of the partners' outstanding indebtedness and to issue to them \$17,800 par value of stock. A pro forma balance sheet giving effect to the transfer and to the issue of the stock based on the book figures as of January 1, 1956, is as follows:

<u>Assets</u>		
Current assets -		
Cash and special deposits	\$4,791	
Accounts receivable	6,625	
Prepaid expense	515	
Total current assets		\$11,931
Tangible assets, less reserve		21,749
Intangible capital		2,023
Investment securities		<u>5,100</u>
Total		<u>\$40,803</u>
<u>Liabilities and Capital</u>		
Current liabilities		
Notes payable		\$17,988
Capital		5,015
		<u>17,800</u>
Total		<u>\$40,803</u>

The operative rights to be transferred are represented by certificates of public convenience and necessity granted to the partners by Decision No. 51028, dated January 25, 1955, and Decision No. 52070, dated October 11, 1955. The operative equipment includes

the trucks, trailers, shop equipment, furniture and office fixtures and miscellaneous tangible properties now used in the operations.

A review of the application indicates that the corporation will take over the assets and other properties at their book values and that there will be no change in the equipment or services available to the public or in the rates. We are of the opinion, and so find, that the transfer under the terms indicated will not be adverse to the public interest and should be authorized.

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 matter and being 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 issue of

the stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Phyllis M. Pearce and Frank H. Himmelman, doing business as Alta Freight and Transfer, may sell and transfer their highway common carrier operative rights and equipment to Alta Freight and Transfer, Inc.

2. Alta Freight and Transfer, Inc., in payment for said operative rights and equipment may assume the payment of outstanding indebtedness as indicated herein and may issue not exceeding \$17,800 par value of common stock.

3. On not less than five days' notice to the Commission and to the public, applicants shall, effective concurrently with the consummation of such transfer, supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Phyllis M. Pearce and Frank H. Himmelman have withdrawn or canceled and Alta Freight and Transfer, 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. Alta Freight and Transfer, 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. The authority herein granted will become effective 20 days after the date hereof. Unless exercised, such authority will expire on September 30, 1956.

Dated at San Francisco, California, this 10th day of April, 1956.

John E. ...
President

Justus J. ...

Paul ...

R. ...

Commissioners