

ORIGINAL

Decision No. 53594

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of AMERICAN TRUST COMPANY as Executor of the Last Will and Testament of JOSEPH D. SHEEDY, Deceased, and SHEEDY DRAYAGE CO., a California corporation, for a permit to issue and sell securities and authorizing the transfer of Certificate of Convenience and Necessity to operate as a Highway Common Carrier.

Application No. 38311

OPINION AND ORDER

This is an application for an order of the Commission, authorizing American Trust Company, as executor of the last will and testament of Joseph D. Sheedy, deceased, to transfer highway common carrier operative rights and properties to Sheedy Drayage Co., a corporation, and authorizing said corporation to issue shares of stock.

The application shows that Joseph D. Sheedy, at the time of his death on November 28, 1955, was the owner of a certificate of public convenience and necessity, which was granted by the Commission by Decision No. 51000, dated January 18, 1955, and which permitted operations as a highway common carrier within the East Bay Cartage Zone, that he owned a fleet of motor vehicle equipment used in his operations and that, since his death, the equipment and business have been operated by American Trust Company, as executor. It appears that certain employees desire to continue the operations and have made an offer to the executor to purchase the business for the sum of \$180,000. The application shows that the

Superior Court of the State of California, in and for the City and County of San Francisco, has approved the sale by minute order.

The purchasers have organized a corporation to receive the operative rights and properties and intend to purchase \$180,000 of stock at par in order to provide the purchase price. It is reported that no part of the purchase price is assigned to the intangible assets and that the tangible assets, which will be acquired, consisting of rolling stock, machinery and equipment, are valued at \$192,225, as shown in some detail in an appraisal submitted to the Commission. The latest annual report of the operations shows, for 1955, operating revenues of \$621,491 and net income of \$36,674, before provision for income taxes.

Upon reviewing this matter, the Commission is of the opinion, and so finds, that a public hearing is not necessary, that the proposed transfer will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required 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. American Trust Company, as executor of the last will and testament of Joseph D. Sheedy, deceased, may transfer the operative rights and properties referred to in this application to Sheedy Drayage Co., a corporation, and Sheedy Drayage Co., a corporation, may issue not to exceed \$180,000 of par value of its common stock in payment for such operative rights and properties.

2. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the highway common carrier operations here involved to show that Sheedy Drayage Co., 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.

3. Sheedy Drayage Co., a corporation, 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.

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

5. The authority herein granted will become effective on the date hereof.

Dated at San Francisco, California, this 21st day of August, 1956.

 President
Justin I. Casanova
Robert L. Luterer
B. Hardy

 Commissioners