

Decision No. 54101

ORIGINAL

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)	Application No. 38220
DRAYAGE, INC., a corporation, to)	
purchase and acquire operative)	
rights, business and good will.)	

O P I N I O N

Applicant Glen D. Nolan has acquired rights as a highway common carrier of property from this Commission on two occasions. The first of these was in January of 1955 when a right was granted covering the San Francisco-East Bay Cartage Zone. This right has been transferred by Nolan to applicant corporation pursuant to a decision of this Commission. The other occasion was on February 14, 1956 when certain additional rights were granted by Decision No. 52653 in Application No. 36222.^{1/} These latter rights, applicant Nolan now seeks to transfer to the corporate applicant. The application alleges that Nolan is sole stockholder of applicant.

To accomplish this purpose the present application was filed jointly by both the buyer and seller on July 9, 1956. The Commission has examined the allegations of the application and the exhibits attached to it and finds nothing in the transfer contrary to the public interest. The sought authority will be granted. No public hearing appears to be required.

The total purchase price is to be \$25,000. This includes \$1,000 for the operating rights and \$24,000 for the "business and good will" of the seller (Nolan). The consideration is to be paid in five annual installments of \$5,000 each. Financial statements attached to the application show that each of the two operations is

^{1/} This decision authorizes service: (1) between San Mateo, Hayward, San Jose and intermediate points; (2) San Francisco-Oakland-Berkeley and Decoto-Niles-Norwalk; (3) San Francisco and Stockton. There is a prohibition against linking up.

profitable and that the corporate applicant (buyer) is well able to provide funds for this purchase.

The parties have embodied the terms of their transaction in an agreement to sell. This is expressly made to depend upon the approval of this Commission. The following order will include an authorization to carry out the terms of that agreement.

Colma Drayage, Inc., a corporation, is 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 Commission is of the opinion that the money, property or labor to be procured or paid by the execution of the indebtedness herein authorized is reasonably required for the purpose specified in the order, which purpose is not, in whole or in part, reasonably chargeable to operating expenses 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.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary; therefore,

IT IS HEREBY ORDERED as follows:

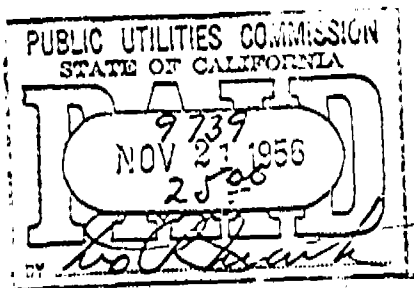
1. Glen D. Nolan may transfer to Colma Drayage, Inc., a corporation, on or before January 31, 1957, the highway common carrier operative right created by Decision No. 52139, dated October 25, 1955, as modified by Decision No. 52653, dated February 14, 1956, both in Application No. 36222; and Colma Drayage, Inc., may execute and incur indebtedness in the principal amount of not to exceed \$25,000 in acquiring the rights and business.

2. 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 cancelled 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. 60.

3. Glen D. Nolan and Colma Drayage, Inc., a corporation, are authorized to carry out the terms and provisions of the agreement entered into between them on the twentieth day of June, 1956, a copy of which is attached to the application herein and marked Exhibit A.

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

Dated at San Francisco, California, this 19th day of NOVEMBER, 1956.



[Signature] President
[Signature]
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Commissioners