

ORIGINALDecision No. 54932

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 M. E. BEALEY, an individual doing)
 business as CLIPPER TRANSPORT, to)
 purchase and ORANGE EMPIRE TRUCK)
 LINES, INC., a corporation, to sell)
 certain operating rights, goodwill,)
 and property;)

and)

Application No. 38738

In the Matter of M. E. BEALEY, an)
 individual doing business as CLIPPER)
 TRANSPORT, to assume certain obliga-)
 tions of ORANGE EMPIRE TRUCK LINES,)
 INC., a corporation, and execute a)
 chattel mortgage and promissory)
 note.)

Berol & Silver, by Bertram S. Silver, for applicants
 M. E. Bealey and Ross Ward; Don Murchison for applicant
 Orange Empire Truck Lines, Inc.
Paul H. Moore and A. M. Miller for General Petroleum
 Corporation, and Wm. D. Bowser for Trailmobile, Inc.,
 interested parties.
Theodore Stein for the Commission's staff.

O P I N I O N

By Decision No. 50633, Orange Empire Truck Lines, Inc.,
 a California corporation, acquired the trucking business and assets
 formerly operated by V. P. Hunt Co., Tankers, Inc., and V. P. Hunt
 and Marion B. Hunt, doing business as V. P. Hunt Co., and the
 operating rights created by Decisions Nos. 12422, 17754, 42623 and
 44393.^{1/}

Decisions Nos. 12422 and 17754 authorize the transportation
 of dry freight and are not a part of the transfer and sale herein
 proposed.

^{1/} Previous transfer decisions are Nos. 17859, 27197, 36422, 37731
 and 39422.

Decisions Nos. 42623 and 44393 authorize the transportation of petroleum and petroleum products as more specifically set forth in said decisions.

By this application, as amended, Orange Empire Truck Lines, Inc., a corporation, seeks authority to transfer and sell to M. E. Bealey and Ross Ward, copartners, doing business as Clipper Transport, the operating rights created by said Decisions Nos. 42623 and 44393 for a purchase price of \$600, two pieces of motor vehicle equipment consisting of one tanker and one tank trailer for a purchase price of \$9,500, and the goodwill of the seller's tanker division for a purchase price of \$6,182.52. The total consideration is \$16,289.52 which is to be paid in cash. The partnership will also purchase from Trailmobile, Inc., a corporation, an additional 21 pieces of motor vehicle equipment for a consideration of \$70,450.29 plus financing charges of \$13,390. A down payment of \$3,500 in cash will be made, the balance, by the terms of a conditional sales contract, will be paid in sixty monthly cash installments. No promissory note will be executed.

Public hearings were held in this matter before Examiner Mark V. Chiesa in Los Angeles on March 11, April 1, and April 5, 1957. The application was submitted on the latter date. The record has been considered and the matter is ready for decision.

The seller is experiencing difficulties in operating both a dry freight and petroleum products business and for that reason is desirous of concentrating its efforts on the original business which has in the past been financially successful. The purchasers are experienced and well known in the trucking business, and Mr. Bealey particularly is qualified to conduct a petroleum transportation business. He is at present the general manager of the tanker

division of the selling company and since he was established in that position, in January of 1957, the business has shown a steady financial improvement. Although the tanker division, since January 1, 1957, has shown a loss of approximately \$3,100, after depreciation, the month of March showed a net profit of \$1,155 after depreciation. It was testified that the months of January and February are the least profitable of the year in the oil transportation business. The evidence shows that purchasers will be able to meet the payments required under the conditional sales contract.

The personal net worth of purchasers M. E. Bealey and Ross Ward is approximately \$158,000 (Exhibits "G" and 5). After giving effect to the proposed purchase of equipment and consummation of the sale and transfer a pro-forma balance sheet of the copartnership reflects total assets of \$113,129.81, total liabilities of \$81,340.29, and a net worth of \$31,789.52 (Exhibit No. 4).

The application is not opposed. The Commission having considered the matter is of the opinion that the proposed sale and transfer will not be adverse to the public interest and therefore the application will be granted.

The action taken herein shall not be construed to be a finding of value of the properties hereinabove described.

M. E. Bealey and Ross Ward are 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, 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.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Orange Empire Truck Lines, Inc., a corporation, may sell and transfer, on or before sixty days after the effective date of this order, to M. E. Bealey and Ross Ward, copartners, doing business as Clipper Transport, the operating rights and property referred to in the foregoing opinion, said sale to be made substantially upon the terms and conditions of the agreement of sale filed as Exhibit M, filed with the First Amendment to Application, and M. E. Bealey and Ross Ward may acquire said rights and property and shall continue to operate a transportation service as heretofore authorized by this Commission.

(2) That within sixty days after the effective date hereof, concurrently with the consummation of the transfer herein authorized, 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 operations here involved to show that Orange Empire Truck Lines, Inc., has withdrawn and M. E. Bealey and Ross Ward have adopted as their own said rates, rules and regulations.

(3) That in the event the authority herein granted is exercised, M. E. Bealey and Ross Ward shall notify the Commission in writing of the fact within thirty days after the date of transfer.

A. 38738 MK

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 30th day of APRIL, 1957

[Signature]
President
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners