

ORIGINAL

Decision No. 57129

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAMJO, INC., a California corporation, doing business as SMISER FREIGHT SERVICE, for authority to sell and issue its capital stock;

-and-

In the Matter of the Application of SAMJO, INC., a California corporation, doing business as SMISER FREIGHT SERVICE, to purchase, and Curtis B. Danning Trustee for ARROW PACIFIC DRAYAGE, a California corporation, Bankrupt, to sell, certain operating rights.

Application No. 40127

Russell B. Seymour, for Curtis B. Danning, Trustee in behalf of Arrow Pacific Drayage, and Donald Murchison, for Samjo, Inc.

O P I N I O N

This is an application for an order of the Commission (1) authorizing Curtis B. Danning, Trustee in behalf of Arrow Pacific Drayage, a California corporation, bankrupt, to transfer operative rights to Samjo, Inc., a California corporation doing business as Smiser Freight Service, and (2) authorizing Samjo, Inc. to issue 281 shares of its no par common stock in liquidation of indebtedness of \$28,197 as of January 31, 1958.

A public hearing was held before Examiner Coleman in Los Angeles on August 7, 1958 at which time the matter was taken under submission. The Commission has received no protests in the proceeding.

It appears that Arrow Pacific Drayage formerly was engaged in business as a highway common carrier in southern California under certificates of public convenience and necessity granted by Decisions Nos. 39312, 40433, 48722 and 52519; that in 1957 it filed a petition in bankruptcy in The District Court of

the United States, Southern District of California, Central Division; that the Referee in Bankruptcy thereupon appointed Curtis B. Danning as Trustee for Arrow Pacific Drayage;^{1/} and that on February 25, 1958, an order was entered in said court authorizing said Curtis B. Danning, Trustee, to sell the certificated rights to Samjo, Inc. for the sum of \$3,200, said sale to be subject to the approval of this Commission. The order of the court shows that the purchaser was the highest bidder.

Samjo, Inc., the prospective operator, was organized on March 21, 1949, and presently is engaged in business as a highway contract carrier. The application shows that it owns 18 units of property which it can devote to the operations, that its net investment in assets, as of January 31, 1958, amounted to \$38,719 and that it had financed itself with a long-term loan of \$8,629, with borrowings from its proposed shareholders of \$28,197 and with retained earnings of \$1,893. It now desires to issue stock in discharge of the borrowings of \$28,197.

The Commission is of the opinion that an order should be entered granting applicants' requests. 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

^{1/} The Commission heretofore has suspended the operative rights to and including August 1, 1958. (Decision No. 55635, dated October 1, 1957, and Decision No. 56313, dated March 3, 1958.)

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 as a finding of the value of the operative rights herein authorized to be transferred.

O R D E R

The Commission has considered the above-entitled matter and is of the opinion, and so finds, 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. Curtis B. Danning, Trustee in behalf of Arrow Pacific Drayage, a California corporation, bankrupt, may transfer to Samjo, Inc. the operative rights referred to in this application.
2. Samjo, Inc. may issue not exceeding 281 shares of its no par common stock in payment of outstanding obligations in the principal sum of \$28,197.

3. 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 common carrier operations here involved to show that Curtis B. Danning, Trustee, has withdrawn or canceled and Samjo, Inc. 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. Samjo, 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 authorization herein granted will become effective on the date hereof. If not exercised, such authorization shall expire on December 31, 1958.

Dated at San Francisco, California, this 12th day of August, 1958.

C. L. Fox
President
[Signature]
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Commissioners