

Decision No. 57511**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 CHARLES E. HOPPE, Trustee in  
 Bankruptcy for DELANEY DRAYAGE CO.,  
 to sell and transfer, and MELVIN D.  
 ALDERS, THOMAS R. MINER, HAROLD D.  
 KENNEDY and JOSEPH BONDI, a  
 copartnership, doing business as  
 BAY CITIES EXPRESS CO., to purchase  
 and acquire the operating rights of  
 seller.

Application No. 40259

O P I N I O N

Charles E. Hoppe has applied to this Commission to sell and Bay Cities Express Co., a partnership, has applied to buy a highway common carrier certificate. The certificate in question was issued to Joseph P. Delaney and Genevieve M. Delaney by Decision No. 55490. Applicant Hoppe is trustee in bankruptcy for the partners Delaney. A copy of an order attached to the application indicates that Hoppe has authority from his court to make this transfer for the sum of \$2,000.

Financial statements attached to the application reveal that the Bay Cities partners possess the financial ability to restore and operate this service. This right was suspended by a Commission resolution in March of 1958, which still is in effect.

The Commission finds and concludes as follows:

1. That the transfer herein applied for is not contrary to the public interest and that the application should be granted.
2. That the suspension of the operating rights of Joseph P. Delaney and Genevieve M. Delaney now in effect should be lifted.

Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi, a copartnership, doing business as Bay Cities Express Co., 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled 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 verified application having been filed and this Commission having considered the same and good cause appearing,

IT IS ORDERED that:

1. Charles E. Hoppe, as trustee in bankruptcy, be, and he is, authorized to transfer the certificate of public convenience and necessity as a highway common carrier heretofore granted to Joseph P. Delaney and Genevieve M. Delaney by Decision No. 55490 in Application No. 36227, to Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi and that said Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi be, and they are, authorized to acquire the same; consideration for said transfer to be the sum of \$2,000.

2. Within thirty days after the consummation of the transfer herein authorized, applicants shall notify the Commission in writing of that fact, and shall within said period file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect said transfer.

3. Applicants shall, on not less than five days' notice to the Commission and to the public, amend the tariffs on file with this Commission, in so far as they name rates, rules and regulations governing the transportation here involved to show that the partnership of Joseph P. Delaney and Genevieve M. Delaney has withdrawn or canceled and that Melvin D. Alders, Thomas R. Miner, Harold D. Kennedy and Joseph Bondi have concurrently adopted as their own said rates, rules and regulations.

4. The authority herein granted shall expire if not exercised within ninety days after the effective date of this order.

5. Upon completion of the transfer herein authorized and compliance with paragraphs 2 and 3 of this order the suspension of operative rights imposed by Commission Resolution No. 65 of March 25, 1958, shall be revoked, such revocation to take effect upon receipt by the Commission of the last of the filings required by paragraphs 2 and 3.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of October, 1958.

E. Lynn Fox  
President  
Robert Mitchell  
Paul C. L. ...  
...  
Theodore J. ...  
Commissioners