

ORIGINAL

Decision No. 59265

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CORNELIUS A. BUCK, doing business)
as C. A. BUCK MOVING AND STORAGE,)
a proprietorship, to transfer, and)
C. A. BUCK MOVING AND STORAGE)
COMPANY, a corporation, to purchase)
operating rights and business of a)
public warehouse and highway common)
carrier, and to issue stock.)

Application No. 41608

O P I N I O N

This is an application for an order of the Commission (1) authorizing the transfer of operative rights and property formerly owned by Cornelius A. Buck to a corporation named C. A. Buck Moving and Storage Company, and (2) authorizing C. A. Buck Moving and Storage Company, a corporation, to issue \$42,500 par value of common stock.

The application shows that Cornelius A. Buck had been engaged in business as a public utility warehouseman in Burlingame and San Mateo and as a highway common carrier of used household goods and personal effects under prescriptive rights and that in 1959 he transferred his operative rights, trucks, automobiles and equipment to applicant corporation in exchange for shares of stock and leased to said corporation certain real properties and improvements. On July 21, 1959, Cornelius A. Buck died.

It appears that the transfer of the operative rights and the assets and the issue of stock were not authorized by the Commission but that the failure of the parties to present the

matters to the Commission for approval was through inadvertence and with no intent to evade the provisions of the Public Utilities Code. The present application has been filed in order to obtain the requisite authorizations.

From a review of the application, it appears that the capital stock of \$42,500 is equivalent to the reported net worth of the business as of January 1, 1959, including \$300 for franchises and permits, and that the transfer heretofore undertaken has resulted in no change in the rates or service to the public. Under the circumstances, we are of the opinion, and so find, that the transfer of the operative rights and assets is not adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of said stock is reasonably required for the purposes specified herein, that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that an order should be entered granting the application.

C. A. Buck Moving and Storage Company 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 order entered herein shall not be construed to be a finding of the value of the operative rights and assets 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. C. W. Carlon and Henry H. Pierce, executors of the estate of Cornelius A. Buck, may sell and transfer to C. A. Buck Moving and Storage Company, a corporation, the warehouseman and highway common carrier prescriptive rights and the assets referred to in this application and may lease certain premises to said corporation, as indicated in Exhibit C filed in the proceeding.
2. C. A. Buck Moving and Storage Company, a corporation, may assume the payment of outstanding liabilities and may issue not to exceed \$42,500 par value of its common stock for the purposes set forth in this application. Applicant shall issue new shares in lieu of those issued without authorization from the Commission.
3. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfers, applicants shall supplement or reissue the tariffs now on file with the Commission, insofar as they name rates, rules and regulations governing the operations here involved, to show that Cornelius A. Buck has withdrawn or canceled and that

C. A. Buck Moving and Storage Company, a corporation, concurrently has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order in all respects shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Orders Nos. 61 and 80.

4. C. A. Buck Moving and Storage Company 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 authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this
17th day of November, 1959.

Ernest P. Long
President
John E. Mitchell
Walter H. Doe
E. J. Fox