

**ORIGINAL**Decision No. 60774

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 VICTOR ADELSON, an individual doing )  
 business as VIC ADELSON DRAYAGE, to )  
 sell, and COMMERCIAL DRAYAGE COMPANY, ) Application No. 42606  
 a corporation, to purchase a certifi- )  
 cate of public convenience and )  
 necessity and certain property. )

O P I N I O N

Both applicants are common carriers of property in the San Francisco Bay region. Adelson is authorized to serve all points in San Francisco Territory and between such territory and Walnut Creek, Pleasanton, Livermore, Dublin and intermediate points. Commercial is authorized to serve points in the San Francisco-East Bay Cartage Zone. The certificates of both carriers authorize the transport of general commodities, with exceptions.

Adelson proposes to transfer his operating authority to Commercial for the sum of \$12,000. This includes \$3,000 as consideration for operating rights and good will and \$9,000, which is the agreed price for three semitrailers. Commercial has agreed to assume the obligation of a conditional sales contract on three tractors. A copy of the agreement between the parties is annexed to the application as Exhibit "A". Commercial requests authority to issue a promissory note for \$2,000 as part of this consideration.

Adelson alleges that he wishes to cease operating as a certificated carrier because of his health. It is also alleged by both applicants that Commercial has a larger fleet and terminal and that the public will benefit from these superior facilities.

As of March 31, 1960, Commercial's current assets were alleged to be \$52,109 with fixed assets of \$56,453. The current

liabilities were \$24,613, fixed liabilities \$22,858, and capital and surplus \$64,945. All figures have been rounded off. Commercial operates 64 pieces of equipment.

Adelson has joint rate authority from this Commission with twenty carriers listed in Paragraph VIII of the application. Commercial requests authority to succeed to Adelson's authority and to adopt these rates. This authorization is no longer needed since repeal of the first sentence of Section 1066 of the Public Utilities Code in 1959. The necessary long- and short-haul authority will be granted.

After consideration the Commission is of the opinion and so finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the rights and equipment nor as a determination that the amounts referred to herein will be accepted as proper bases for an order authorizing the issue of securities.

The Commission finds that the money, property or labor to be procured or paid for by the issue of the promissory note herein authorized is reasonably required for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Commercial Drayage 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, 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

Application having been filed, and amended, and the Commission being of the opinion that the application, as amended, should be granted,

IT IS ORDERED:

1. That on or before December 1, 1960, Victor Adelson may sell and transfer, and Commercial Drayage Company, a California corporation, may purchase and acquire, the operative rights and property referred to in the application herein.
2. That within thirty days after the consummation of the transfer herein authorized, Commercial Drayage Company shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. That on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved to show that Victor Adelson has withdrawn or canceled and Commercial Drayage Company has adopted or established as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.
4. That Commercial Drayage Company is hereby authorized to depart from the long- and short-haul provisions of Article XII, Section 21 of the Constitution of the State of California, and

Section 460 of the Public Utilities Code to the extent necessary to establish joint rate and through routes on the basis of joint rates and through routes heretofore established by Victor Adelson and the other carriers named in the application.

5. That the certificate of public convenience and necessity to be acquired under authority of paragraph 1 of this order is in lieu of and supersedes the certificate of public convenience and necessity granted by Decision No. 50869 in Application No. 34872, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

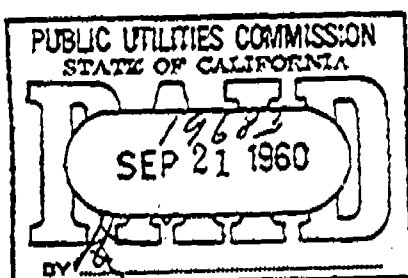
6. That Commercial Drayage Company may issue its promissory note in the sum of \$2,000, substantially in the form shown in Exhibit F to the amendment to the application on file herein for the purpose of acquiring the operative rights and property referred to in the foregoing opinion.

7. That Commercial Drayage Company shall file with the Commission a report, or reports, as required by General Order No. 24-A, which general order, insofar as it is applicable, is made a part of this order.

8. That the authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

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

Dated at San Francisco, California, this 20th day of SEPTEMBER, 1960.



*[Signature]*  
President  
*[Signature]*  
*[Signature]*  
*[Signature]*  
Theodore J. Jernigan  
Commissioners