

ORIGINAL

Decision No. 61248

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FRANK'S TRUCKING, a corporation, to sell and transfer, and EAST BAY LEASING CORPORATION to purchase and acquire certain motor vehicle equipment.

Application No. 42915

O P I N I O N

This is an application filed on November 29, 1960, for an order of the Commission authorizing Frank's Trucking, a California corporation, to sell and transfer its revenue equipment to East Bay Leasing Corporation, a California corporation, and to enter into a lease agreement.

Frank's Trucking is a highway common carrier engaged in the transportation of general commodities, with certain exceptions, between points and places in the San Francisco-East Bay Cartage Zone, and specified commodities between Oakland, on the one hand, and Pittsburg, Sacramento, Stockton and San Jose, on the other hand. The application shows that East Bay Leasing Corporation was organized on June 9, 1960, for the purpose of acquiring and leasing motor vehicle equipment and other properties and is not now engaged, nor does it intend to engage, in any transportation activities for the general public as a motor carrier. The entire capital stock of Frank's Trucking is owned by Frank M. Teixeira and Mary Agnes Teixeira,

his wife, who, together with their daughter, Linda A. Teixeira, own the entire capital stock of East Bay Leasing Corporation.

Frank's Trucking now desires to sell and lease back its revenue equipment and, accordingly, has made arrangements to enter into a conditional sales contract with East Bay Leasing Corporation for the sale to that corporation of all its revenue equipment for the purchase price of \$162,248.01, with a \$17,192.89 cash down payment and with the balance of \$145,055.12, plus interest in the sum of \$9,734.88, a total of \$154,790.00, being payable in 23 monthly installments of \$6,730.00. Coincident with the execution of the conditional sales contract, the two corporations have arranged for a lease agreement whereby East Bay Leasing Corporation will lease back the equipment to the carrier at a monthly rental of \$6,590.63, to remain in full force and effect for a period of one year and thereafter, until canceled by one party giving 30 days' written notice thereof to the other.

The revenue equipment proposed to be sold and leased back is reported to have cost \$323,490.39 and to have a net book value as of June 30, 1960, after deducting the accrued depreciation reserve, of \$162,248.01, being the agreed purchase price in the conditional sales contract into which the applicants propose to enter.

The seller asserts that the proposed sale and lease back will relieve it of certain cash outlays and the responsibility of replacing its equipment. From a review of the terms of the

transactions it appears to us, and we so find and conclude, that the program will not interfere with the performance of the carrier's duties to the public and will not be adverse to the public interest.

Under the circumstances, as disclosed in this particular proceeding, we will enter our order authorizing the proposed transactions. Our order, however, shall not be construed to be a finding of the reasonableness of the terms and conditions of the conditional sales contract or lease agreement. We reserve the right, if called upon to fix rates, to review these matters anew and, with respect to the equipment, to determine at any time the amounts to be included in the rate base or in the operating expenses.

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, and that applicants should be authorized to enter into the proposed transactions; therefore,

IT IS HEREBY ORDERED as follows:

1. Frank's Trucking, a corporation, may sell and transfer its revenue equipment to East Bay Leasing Corporation, and may execute and enter into a conditional sales contract in, or substantially in, the same form as that attached to the application as Exhibit B.

