

62173

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)

(a) W. HAROLD FINLEY, INC., a corporation,)
for authority to issue shares of its)
common capital stock pursuant to)
Sections 816-830 of the California)
Public Utilities Code; and)

(b) W. HAROLD FINLEY, an individual doing)
business as W. HAROLD FINLEY, to)
transfer, and W. HAROLD FINLEY, INC.,)
a corporation, to acquire the)
certificate of public convenience and)
necessity issued to the transferor,)
and a prescriptive right to operate)
as a public utility warehouseman,)
together with certain other property)
used and useful in the performance)
of a common carrier service, pursuant)
to Sections 851-853 and 1052 of the)
California Public Utilities Code.)

Application No. 43442
Filed May 26, 1961

O P I N I O N

This is an application for an order of the Commission (1) authorizing W. Harold Finley to transfer operative rights and equipment to W. Harold Finley, Inc., and (2) authorizing W. Harold Finley, Inc., to issue 600 shares of its common stock of the aggregate par value of \$60,000.

W. Harold Finley is engaged in business as a highway common carrier of general commodities between points in southern California under a certificate of public convenience and necessity granted to him by Decision No. 60546, dated August 9, 1960, and as a public warehouseman under a proscriptive right recognized in

Case No. 6588, dated July 5, 1960. It appears that applicant Finley now desires to conduct his business by means of a corporate form of organization and that he has made arrangements to transfer operative rights, equipment, and current assets to W. Harold Finley, Inc., a new corporation which he has formed for the express purpose of having it take over such rights, equipment and assets, and thereafter continue the operations. The new corporation will acquire the properties at their book values, including only \$1 for the operative rights and intangible capital; will assume the payment of outstanding indebtedness; and will issue its common stock in an amount equivalent to the net worth.

From the application now before us, it appears that the proposed transfer from W. Harold Finley to the new corporation will result in no change in the management or in the rates or service, and that the same equipment will be available to the corporation as is now utilized by the individual. Under the circumstances we find and conclude that the transfer will not be adverse to the public interest and we will enter an order granting the application.

In making this order we place applicants 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. 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 to be a finding of the value of the operative rights and equipment 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; that the application should be granted under the conditions set forth herein; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant corporation 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. W. Harold Finley, on or after the effective date hereof and on or before December 31, 1961, may sell and transfer to W. Harold Finley, Inc., the highway common carrier operative rights acquired by him by Decision No. 60546, dated August 9, 1960, and his prescriptive warehouse operative rights, and equipment as set forth in this application.

2. W. Harold Finley, Inc., in acquiring said operative rights and equipment, may assume the payment of outstanding indebtedness as set forth in this application and may issue not to exceed 600 shares of common stock of the total par value of \$60,000.

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 operations here involved to show that W. Harold Finley has withdrawn or canceled and W. Harold Finley, 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. 61 and General Order No. 80.

4. W. Harold Finley, 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 authority herein granted shall become effective twenty days after the date hereof.

Dated at San Francisco, California,
this 27th day of June, 1961.

President

Commissioners