

ORIGINAL

Decision No. 62264

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) SPEAR ENTERPRISES, INC., a corporation, for authority to issue shares of its common capital stock pursuant to Section 816-830 of the California Public Utilities Code.

(b) GLENN SPEAR, an individual, doing business as UNITED TRUCK LINE, to sell a highway common carrier operating rights, and a radial highway common carrier rights, a highway contract carrier rights and a city carrier rights; and, also, to sell to SPEAR ENTERPRISES, INC., a corporation, certain properties described in this Application, and the assumption of the liabilities as set forth in said Application, all pursuant to Sections 851-853 of the California Public Utilities Code.

Application No. 43476

O P I N I O N

This is an application, filed on June 6, 1961, for an order of the Commission (1) authorizing Glenn Spear, doing business as United Truck Line, to transfer operative rights, equipment and assets to Spear Enterprises, Inc., a California corporation, and (2) authorizing said corporation to assume indebtedness and to issue \$39,000 par value of its common stock.

Glenn Spear is engaged, as a highway common carrier, in the transportation of general commodities between San Francisco and Santa Rosa and other points under a certificate of public convenience and necessity granted by Decision No. 60494, dated August 2, 1960, in Application No. 41857. He also has city carrier, highway contract carrier and radial highway common carrier permits. It appears that Glenn Spear has concluded the operations can be conducted more advantageously by means of a corporate form of organization and that he proposes to transfer his operative rights, equipment and assets to Spear Enterprises, Inc., a new corporation which he has formed for the express purpose of having it take over such rights, equipment and assets and continue the operations. The new corporation will acquire said operative rights, equipment and assets at their book values, will assume the outstanding liabilities and will issue 390 shares of its common stock of the total par value of \$39,000.

The application shows that there will be no change in the rates or service as the result of the transfer and that the same operative properties and management will be available to the corporation as now are utilized in the operations. Under the circumstances we are of the opinion, and so find and conclude, that the transfer will not be adverse to the public interest and should be authorized.

Applicants 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, 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 action taken herein shall not be construed to be a finding of the value of the rights and properties 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, as herein provided; 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. Glenn Spear may transfer to Spear Enterprises, Inc., the certificate of public convenience and necessity granted by Decision No. 60494, dated August 2, 1960, in Application No. 41857, and the equipment and assets, as set forth in this application. For accounting purposes said transfer may be made as of March 1, 1961.

2. Spear Enterprises, Inc., in payment for such rights, equipment and assets, may issue not to exceed \$39,000 par value of its common stock and may assume the payment of outstanding indebtedness.

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 Glenn Spear has withdrawn or canceled and Spear Enterprises, Inc., a corporation, 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. 80.

4. Spear Enterprises, 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. This order shall become effective 20 days after the date hereof.

Dated at San Francisco, California,
this 18th day of JULY, 1961.

Everett Oldberg
President
John E. Meyer
John Fox
George B. Thayer
Fredrick B. Holbrook
Commissioners