

**ORIGINAL**

Decision No. 62712

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of COMMERCIAL DRAYAGE COMPANY, a  
corporation, to sell and H.A.C.  
TRANSPORTATION COMPANY, a  
corporation, to purchase  
certificates of public convenience  
and necessity to operate as a  
highway common carrier.

Application No. 43800

O P I N I O N

This application was filed on October 2, 1961, for an order authorizing Commercial Drayage Company, a corporation, to sell highway common carrier operative rights to H.A.C. Transportation Company, a corporation.

The application shows that Commercial Drayage Company is a highway common carrier of general commodities, with certain exceptions, between points in the San Francisco Territory and East Bay points under a certificate of public convenience and necessity acquired by it under authorization granted by Decision No. 60774, dated September 20, 1960, in Application No. 42606, and that it now proposes to sell its certificate of public convenience and necessity to H.A.C. Transportation Company for the sum of \$10,000 to be paid in cash upon consummation of the transaction.

H.A.C. Transportation Company is a corporation which is engaged in the business of transporting property by motor truck under permits issued by the Commission. It operates a substantial fleet of motor truck equipment, as well as terminal facilities in Oakland, which it will continue to use in the highway common carrier operations of Commercial Drayage Company should the Commission approve the transfer.

It is not our practice to fix the price which may be paid by the purchaser of a public utility operation although, of course, we can decline to approve a transfer if it be shown that the transferee does not have sufficient financial resources to pay the agreed price and to undertake the public service obligations or, if the transfer, in our opinion, should be otherwise adverse to the public interest. In the present case it appears that the purchaser is experienced in the motor truck transport business and that it has the equipment and financial resources to enable it to continue the public service obligations of the transferor.

Under the circumstances set forth in this particular proceeding, we find and conclude that -

1. The proposed transfer will not be adverse to the public interest and an order is warranted granting the application.
2. H.A.C. Transportation Company has the adequate financial resources to acquire the operative rights and to continue the operations of Commercial Drayage Company.

3. The Commission has no power to authorize the capitalization of the operative rights in the amount set forth as the consideration for the transfer of such rights.
4. Any portion of the purchase price not includable in the account provided to reflect the actual cost of obtaining from public authority the operative rights included in the transaction should be charged against the proprietary capital of the purchaser.

Upon the basis of these findings, we will enter our order granting the application. In doing so, 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 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.

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,

IT IS ORDERED that -

1. Commercial Drayage Company, a corporation, on or after the effective date hereof and on or before December 31, 1961, may transfer to H.A.C. Transportation Company, a corporation, the certificate of public convenience and necessity acquired by it pursuant to Decision No. 60774, dated September 20, 1960, in Application No. 42606.

2. 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 Commercial Drayage Company, a corporation, has withdrawn or canceled and H.A.C. Transportation Company, 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.

3. If H.A.C. Transportation Company, a corporation, acquires said certificate under the authorization herein granted, it shall charge to surplus any portion of the purchase price not properly includable in the account provided to reflect the actual cost of obtaining the certificate from public authority.

4. Within 60 days after the consummation of the transfer H.A.C. Transportation Company, a corporation, shall file with the Commission a copy of each journal entry to record on its books the acquisition of the certificate.

5. The authority herein granted shall become effective on the date hereof.

Dated at Los Angeles, California,  
this 24th day of OCTOBER, 1961.

*[Signature]* President  
*[Signature]*  
*George L. Grover*  
*Fredrick B. Hallock* Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.