

ORIGINAL

Decision No. 63569

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

ARMANDO J. BARNI, GEORGE R. LEINO
and RICHARD F. MYERS, Co-partners
doing business as BONDED DRAYING
SERVICE

for authority to transfer assets,
and

BONDED DRAYING SERVICE, a corporation,

for authority to acquire assets and
to issue stock.

Application No. 44316
Filed April 3, 1962

O P I N I O N

This is an application for an order of the Commission (1) authorizing Armando J. Barni, George R. Leino and Richard F. Myers to sell and transfer their highway common carrier certificate of public convenience and necessity, together with revenue equipment and other assets, to Bonded Draying Service, a corporation, and (2) authorizing said corporation to issue \$10,000 par value of its capital stock.

Armando J. Barni, George R. Leino and Richard F. Myers, copartners doing business as Bonded Draying Service, operate as a highway common carrier of general commodities within the San Francisco Territory, and in other portions of central California, all as defined by the certificate of public convenience and

necessity granted to them by Decision No. 60991, dated November 1, 1960, as amended by Decision No. 63050, dated January 9, 1962, in Application No. 42536. For the year 1961 they report total income of \$196,185, and ordinary income of \$11,644, after deducting expenses and \$24,000 for partners' salaries.

The application shows that for business and tax purposes the copartners have determined that it would be desirable to transfer their motor carrier properties and business to a corporation, and to such end on or about April 2, 1962, they caused to be formed Bonded Draying Service, a California corporation. A pro forma balance sheet of said corporation, as of December 31, 1961, giving effect to the proposed transfer and stock issue, is as follows:

<u>Assets</u>	
Cash and accounts receivable	\$ 7,790
Trucks, trailers and autos, less reserve for depreciation	23,200
Office equipment, less reserve for depreciation	1,348
Deposits and prepaid insurance	<u>2,600</u>
Total	<u>\$34,938</u>
<u>Liabilities and Capital</u>	
Accounts and taxes payable	\$12,776
Equipment mortgages payable	8,187
Capital stock	10,000
Paid-in surplus	<u>3,975</u>
Total	<u>\$34,938</u>

It appears that there will be no change in the rates, service or management as the result of the transfer, and that the same equipment, facilities and other assets will be available to the public.

Upon reviewing the verified application we find and conclude that (1) the proposed transfer will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we will enter an order granting the application.

Bonded Draying Service, a corporation, 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.

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, and that the application should be granted, therefore,

IT IS ORDERED that -

1. Armando J. Barni, George R. Leino and Richard F. Myers, on or after the date hereof and on or before July 31, 1962, may sell and transfer, and Bonded Draying Service, a corporation, may purchase and acquire, the certificate of public convenience and necessity granted by Decision No. 60991, dated November 1, 1960, as amended by Decision No. 63050, dated January 9, 1962, in Application No. 42536, together with the revenue equipment and other assets referred to in the application.

2. Bonded Draying Service, a corporation, on or after the date hereof and on or before July 31, 1962, in payment for said assets may assume outstanding liabilities and may issue not to exceed \$10,000 par value of its capital stock.

3. Within thirty days after the consummation of the transfer herein authorized, Bonded Draying Service, a corporation, 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.

4. On not less than thirty 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 Armando J. Barni, George R. Leino and Richard F. Myers have withdrawn or canceled, and Bonded Draying Service, a corporation, 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.

5. Bonded Draying Service, a corporation, 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.

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

Dated at San Francisco, California, this 17th day of APRIL, 1962.

[Signature] President
[Signature]
[Signature]
[Signature] Commissioners