

Decision No. 18948**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
FRANK MULLENS, doing business under	)	
the fictitious name of BURBANK TRANSFER,	)	
to sell, and of S. B. COWAN to purchase	)	Application
an operative right for the transportation	)	No.14149
of freight by motor truck between Los	)	
Angeles and Burbank via Glendale.	)	

BY THE COMMISSION -

OPINION and ORDER

Frank Mullens has petitioned the Railroad Commission for an order approving the sale and transfer by him to S. B. Cowan of an operating right for an automotive service for the transportation of freight between Los Angeles, Glendale and Burbank, and S.B.Cowan has applied for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$5500. Of this sum \$4500 is declared by applicants to represent the value of certain equipment and \$1000 is said to represent the value of intangibles.

The operating right herein proposed to be transferred was originally granted by the Railroad Commission to C.A. Chambers by Decision No.7491, dated April 26, 1920, and issued on Application No.4499, which decision authorized Chambers to operate an automotive trucking service between Burbank and Los Angeles, via Glendale. By Decision No.8698, dated March 4, 1921, and issued on Application No.6591, the Commission authorized Chambers to sell and transfer the operating right to F. A. Mullens. On June 16, 1922, by Decision No.10592, issued on Application No.7825, the Commission authorized Mullens to sell and transfer to Chambers a one-half

interest in the operating right and the service was operated by the partnership until December 7, 1922, when the Commission, by Decision No. 11331, issued on Application No. 6469, authorized Chambers to sell and transfer his interest to Mullens.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

The purchaser is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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 to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

IT IS HEREBY ORDERED that the above entitled application be and the same hereby is granted, subject to the following conditions:

- 1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
- 2- Applicant Mullens shall immediately unite with applicant Cowan in common supplement to the tariffs on file with the Commission, applicant Mullens on the one hand withdrawing, and applicant Cowan on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant Mullen shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Cowan shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicant Mullen, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mullen, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicant Cowan unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- The order herein is not to be construed as authority for applicant Cowan to link up or join the operating right herein authorized to be transferred with operating rights now owned by him.

Dated at San Francisco, California, this <sup>12</sup> 25 day of October, 1927.

Ernest J. ...

Chas. ...

Leon ...

Thos. ...

M. A. ...

COMMISSIONERS.