

Decision No. 20580.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Mary J. Tucker, executrix of)
last will and testament of)
Benjamin N. Tucker, deceased, for) Application
an order transferring auto truck)
freight line.) No. 15257.

BY THE COMMISSION:-

ORIGINAL

OPINION and ORDER

Mary J. Tucker, executrix of the last will and testament of Benjamin N. Tucker, and as his widow and heir under the terms of said will, has applied to the Railroad Commission for an order approving said inheritance and authorizing the transfer to her of the operating rights under which said Benjamin N. Tucker was operating an automotive trucking service between Corona and Los Angeles Harbor district and between Corona and Los Angeles.

Attached to the application herein and made a part thereof is a copy of an order of the Superior Court of the County of Riverside approving the final account of Mary J. Tucker as executrix of the will of Benjamin N. Tucker, and distributing to her, among other properties, said operating rights.

The operating rights herein proposed to be transferred were granted as follows:

By Decision No. 14112, and No. 14174, dated October 1, 1924, and October 11, 1924, and issued on Application No. 9604: B.N. Tucker was authorized to transport citrus fruits and products between Corona and Wilmington and San Pedro, and a return movement of citrate of lime, citric acid, box shooks, fertilizer and citrus packing house supplies upon demand and in quantities of five tons or more, over and along the following route:

West from Corona over the main highway via Olive, Anaheim, Los Alamitos, Long Beach to Wilmington and San Pedro, and returning via the same route.

By Decision No. 16540, dated April 21, 1926, and issued on Application No. 12289: B.N. Tucker was authorized to operate a freight service for the transportation of packed citrus fruits only from

Corona to Los Angeles, and of lumber, lime, plaster, wallboard, sulphur, chalk, sulphuric acid and muriatic acid only from Los Angeles to Corona, in quantities of not less than five tons, over and along the following route:

West from Corona on Santa Ana Canyon Road to Fullerton (via Placentia), thence over main highway to Los Angeles via Buena Park, Norwalk and Huntington Park, and returning over identically the same route;

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.

Mary J. Tucker 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby 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 Mary J. Tucker, as executrix of the will of E.N. Tucker shall immediately unite with applicant Mary J. Tucker in common supplement to the tariffs on file with the Commission, applicant Mary J. Tucker, as executrix of the will of E.N. Tucker on the one hand withdrawing, and applicant Mary J. Tucker as owner, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Mary J. Tucker as executrix of the will of E.N. Tucker shall immediately withdraw time schedules filed in the name of E.N. Tucker with the Railroad Commission and applicant Mary J. Tucker, owner shall immediately file, in duplicate, in her own name time schedules covering service heretofore given by E.N. Tucker which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of E.N. Tucker 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 Mary J. Tucker unless such vehicle is owned by said applicant or is leased by her under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California this 12th day of December, 1928.

Leon Whaley

Chas. W. ...

Edward ...

W. H. ...

COMMISSIONERS.