

LEM

Decision No. 22502.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CALIFORNIA MOTOR TRANSPORT CO., LTD.,)
for authority to issue stock to pur-)
chase and acquire the certificate and)
assets owned by Ernest Sunberg; and)
of Ernest Sunberg to transfer the same)
to California Motor Transport Co., Ltd.)

Application No. 16544

ORIGINAL

Sanborn, Roehl, Smith and Brookman,
for applicants.

BY THE COMMISSION:

O P I N I O N

In this application the Railroad Commission is asked to make its order authorizing Ernest Sunberg to transfer his operative right, properties, assets and business to California Motor Transport Co., Ltd., a corporation, and authorizing California Motor Transport Co., Ltd., to issue 250 shares of its no-par value common stock and to sell three shares thereof for cash for \$10.00 each to its three incorporators and to use the remaining 247 shares to pay for the operative right, properties, assets and business of Ernest Sunberg.

It appears that Ernest Sunberg is engaged in the business of transporting property by auto trucks, operating under authority granted by the Commission in Decision No. 22274, dated April 2, 1930, as amended by Decision No. 22361, dated April 22, 1930, in Application No. 16027, which permits the operation of a

through automobile truck service between San Francisco and Los Angeles, such service to be limited to the transportation of property consigned to the operator by Robert W. Lacey, operating an express business under the name and title of California Freight Forwarders, subject to certain conditions as follows:-

1. That no service be given between intermediate points between San Francisco and Los Angeles nor between the terminals and intermediate points and that said Sunberg shall not accept for transportation, commodities requiring refrigeration, fresh vegetables or cut flowers or secondhand household goods, office furniture, fixtures and equipment, musical instruments, radios and other secondhand household equipment not boxed or crated; also barrels, bundles and boxes containing secondhand household goods, but not including baggage, trunks, traveling cases, suitcases, cartons or boxes containing personal effects.
- or
2. That no pick-up/delivery service shall be performed by said Sunberg in either the City of Los Angeles or the City and County of San Francisco, the operating right authorizing service only between the main terminal depots of the California Freight Forwarders.

In addition to the above certificate, it appears from Exhibit "B" that applicant Sunberg is the owner of assets and properties as follows:-

Three White trucks, 51 A Specials, constructed with special bodies, purchased during April, 1930, and fully paid for; cost	\$22,500.
One White truck, 51 A Special, constructed with special body, purchased during November, 1929, for \$7,500.,-present value.....	5,600.
Tires(new) cost	1,000.
Cash on hand	2,500.
Total.....	<u>\$31,600.</u>

Applicant reports no liabilities as of May 1, 1930.

The application shows that Ernest Sunberg has agreed to transfer his operative right, properties, assets and business to California Motor Transport Co., Ltd., in exchange for 247 shares of no-par value common stock. It seems that California Motor Transport Co., Ltd. was organized by applicant Sunberg on or about May 10, 1930, under the laws of the State of California with an authorized capital stock of 2500 shares without nominal or par value. Three shares have been subscribed for at \$10.00 by the company's three incorporators, namely, Ernest Sunberg, Douglas Brookman and H. E. Shearer.

It appears to us that the assets and properties to be transferred to the corporation are ample to support the proposed issue of 247 shares of stock and in our opinion the proposed transfer and stock issue are not contrary to the public interest. In authorizing the transfer of the operative right we wish to place the purchaser 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.

ORDER

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock and the Commission being of the opinion that this is not a

matter in which a public hearing is necessary and that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that Ernest Sunberg be, and he hereby is, authorized to transfer, on or before August 1, 1930, to California Motor Transport Co.,Ltd., his operative right, properties, assets and business, referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that California Motor Transport Co.,Ltd., be, and it hereby is, authorized to purchase and acquire said operative right, properties, assets and business and to issue, on or before August 1, 1930, in payment therefor, 247 shares of its no-par value common stock, and in addition, to issue and sell for cash three shares of its no-par value common stock at \$10.00 a share, and to use the proceeds to pay in part, organization and incorporation expenses.

The authority herein granted is subject to the following conditions:-

1. Ernest Sunberg and California Motor Transport Co.,Ltd., shall join in common supplement to the tariffs now on file with the Railroad Commission in the name of Ernest Sunberg, applicant Sunberg on the one hand withdrawing and applicant California Motor Transport Co.,Ltd. on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

2. Ernest Sunberg shall withdraw immediately all time schedules filed with the Railroad Commission in his name and California Motor Transport Co.,Ltd., shall file in duplicate in his own name, time schedules which shall be identical with those now on file in the name of Ernest Sunberg, or time schedules satisfactory to the Commission.

3. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred or assigned, or service thereunder discontinued unless written consent of the Railroad Commission is first secured.

4. No vehicle may be operated by California Motor Transport Co., Ltd., unless such vehicle is owned by it or is leased by it under a contract or agreement on a basis satisfactory to the Commission.

5. California Motor Transport Co., Ltd., shall keep such record of the issue of the stock herein authorized as will enable it to file within thirty days thereafter a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective ten days after the date hereof.

DATED at San Francisco, California, this 5th day of June, 1930.

Cl Seaver
Edward
W. Smith

Commissioners.