

LEM

Decision No. 24503.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
R. E. ROBSON,)
an individual, as Lessor, and)
CALIFORNIA MILK TRANSPORT, INC., a)
corporation, as Lessee, to lease cer-)
tain operative rights pertaining to)
the transportation of milk and dairy)
products over certain highways in)
Los Angeles and Orange Counties.)

ORIGINAL

Application No. 17960

In the Matter of the Application of)
CALIFORNIA MILK TRANSPORT, INC.,)
for authorization to issue and sell)
stock.)

Application No. 17962

BY THE COMMISSION:

OPINION AND ORDER

R. E. Robson has petitioned the Railroad Commission for an order approving the lease, sale and transfer by him to California Milk Transport, Inc., a corporation, of operating rights for an automobile service for the transportation of property between Los Angeles and various points in Los Angeles and Orange Counties, exclusively milk, dairy products and supplies; and California Milk Transport, Inc. has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder.

California Milk Transport, Inc. further asks permission to issue and sell, at par, 153 shares of its common capital stock of the aggregate par value of \$15,300.00, and to use \$15,000.00 of the proceeds to make the initial payment for the properties of R.E. Robson and \$300.00 to pay organization costs.

The physical properties to be transferred consist of sixteen trucks and eleven trailers, together with certain real estate, buildings, garage equipment, fixtures, tools, machinery, apparatus and other tangible property. The operative rights to be transferred by lease were created by Decision No. 23114, dated November 28, 1930, in Application No. 16407, in lieu of all previous rights for "the automotive transportation as a common carrier of milk, cream and dairy products, and for the back haul of dairy supplies and empty containers; service to be given to no others than the dairies and creameries served by the applicant between Alhambra, Culver City, El Monte, Glendale, Hawthorne, Hollywood, Huntington Park, Inglewood, Lawndale, Lennox, Los Angeles, Montebello, Pasadena, Southgate, Torrance, Watts, Whittier, Burbank, Ocean Park, Redondo Beach, San Pedro, Santa Monica, Venice, Wilmington, Long Beach and San Bernardino, on the one hand, and Huntington Park, Bell, Southgate, Downey, Compton, Long Beach, Clearwater, Hynes, Bellflower, Artesia, Norwalk and intermediate points on the other hand, serving the dairies located in the territory and along the following pickup routes, and two(2) miles each side thereof, which pickup routes are in the general vicinity of Huntington Park, Southgate, Downey, Compton, Clearwater, Hynes, Bellflower, Long Beach, Artesia and Norwalk, *****."

The consideration to be paid for the property is stated at \$40,000.00. This amount is declared to be the value of the physical properties only, nothing being included as a value of the intangibles. Under the agreement of transfer, \$15,000.00 of the purchase price will be paid upon receipt of an order of the Railroad Commission permitting the transaction, and the balance in monthly installments of \$1,000.00, all deferred payments to bear interest at the rate of seven percent per annum. Pending the completing of the payments, it is proposed

that the purchaser shall have possession of the assets of the seller in the same manner as a lessee. A copy of the proposed lease and a copy of the agreement of sale and transfer are filed in these proceedings.

California Milk Transport, Inc. proposes to issue \$15,000.00 of stock to make the initial payment under the agreement of transfer. It recites that it expects to obtain sufficient money to complete the payments by means of short term loans on open book accounts for periods not exceeding twelve months and to repay such loans out of profits to be derived from its business, and it does not plan upon making application in the future for authority to issue additional stock or to incur indebtedness, but will do so only if it becomes necessary to provide special capital to meet its obligations.

R. E. Robson, the seller of the properties and rights, from time to time has filed financial reports with the Commission. His last report for the year ending December 31, 1930, shows his investment in plant and equipment, exclusive of intangibles, at \$90,571.00 and his accrued reserve for depreciation at \$56,829.00. His gross revenues for the year 1930 were reported at \$93,063.00 and his net revenues at \$9,328.13. For 1929, his gross revenues were reported at \$92,516.00 and his net revenues at \$8,911.00; and for the year 1928 gross revenues at \$123,299.00 and his net revenues at \$17,090.00.

From our review of these proceedings and the financial reports heretofore filed, it occurs to us that the transfer of the properties under the terms herein set forth is not contrary to public interest and might very properly be granted. In our opinion the agreement of sale and transfer, providing as it does for deferred payments, is an evidence of indebtedness coming within the meaning

of Section 6 of the Auto Stage and Truck Transportation Act and, as such, requiring the Commission's approval, which approval in turn is subject to the fee prescribed by the Act. We believe that these applications are not matters in which public hearings are necessary and that the money, property or labor to be procured or paid for through the issue of the \$15,300.00 of stock is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expense or to income. An order accordingly will be entered. In making such an order, we wish to place California Milk Transport, Inc. on 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 R. E. Robson be, and he hereby is, authorized to lease, sell and transfer to California Milk Transport, Inc., a corporation, the operative rights and properties referred to herein, such lease, sale and transfer to be in accordance with the terms of the agreements filed in these proceedings, which agreements applicants are hereby authorized to execute.

IT IS HEREBY FURTHER ORDERED, that California Milk Transport, Inc. be, and it hereby is, authorized to issue and sell for cash, at par, 153 shares of its common capital stock of the aggregate par value of \$15,300.00 and to use \$15,000.00 of the proceeds to pay in part the cost of the properties to be acquired from R. E. Robson, and to

use \$300.00 of the proceeds to pay organization expenses.

IT IS HEREBY FURTHER ORDERED, that the above entitled applications be, and the same are 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 R. E. Robson shall immediately unite with applicant California Milk Transport, Inc. in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant R. E. Robson on the one hand withdrawing, and applicant California Milk Transport, Inc. on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant R. E. Robson shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant California Milk Transport, Inc. shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant R.E. Robson, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant R. E. Robson, 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 California Milk Transport, Inc., unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. California Milk Transport, Inc. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month 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.

The authority herein granted will become effective when California Milk Transport, Inc. has paid the fee prescribed by Section 6

of the Auto Stage and Truck Transportation Act.

DATED at San Francisco, California, this 23rd day of
February, 1932.

C. C. Stearns
Leon Whidely
M. A. Lee
W. B. Harris
Fred G. Stewart
Commissioners.

Fee # 25⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
FEB 25 1932
A. D. Williams
Fee # 23517