

Decision No. 25458

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
S. K. McMURRAY AND H. C. McMURRAY )  
to sell and McMURRAY TRANSPORTATION )  
SERVICE, LTD. to purchase an auto- )  
mobile freight line operating be- )  
tween Santa Barbara and Santa Ynez )  
in the County of Santa Barbara, )  
State of California. )

ORIGINAL

Application No. 18512

BY THE COMMISSION:

ORIGINAL

O P I N I O N

In this application the Railroad Commission is asked to make an order authorizing S. K. McMurray and H. C. McMurray to transfer auto truck operative rights and properties to McMurray Transportation Service, Ltd., and authorizing McMurray Transportation Service, Ltd. to issue 240 shares of its common capital stock of the aggregate par value of \$24,000.00.

It appears that S. K. McMurray and H. C. McMurray, doing business under the firm name and style of Santa Ynez Valley Freight Line, since the latter part of 1930, have been engaged in operating an auto truck line for the transportation of freight generally between Santa Barbara and Santa Ynez and intermediate points. During 1931 the operators reported gross revenues of \$45,330.06, operating expenses of \$39,808.73 and net operating revenue of \$5,521.33, and, after deducting interest and other income charges, a net profit for the year of \$4,960.09. For the nine months ending September 30, 1932, they report gross revenues of \$40,578.65, operating expenses of \$35,630.61 and net operating

revenues of \$4,948.04, and, after deducting interest, a net profit for the period of \$4,709.88. They set forth their assets and liabilities as of September 30, 1932, as follows:

A S S E T S

Fixed assets:		
Trucks and trailers.....	\$49,000.17	
Machinery and tools.....	1,106.34	
Furniture.....	342.00	
Autos.....	522.96	\$50,971.47
Franchise.....		2,000.00
Current assets:		
Cash-credit.....	329.18	
Notes and accounts receivable-net	7,128.67	
Materials and supplies.....	1,104.98	
Prepayments.....	1,561.68	9,466.15
Proprietors' personal property-net.....		3,401.53
	Total Assets.....	<u>\$65,839.15</u>

L I A B I L I T I E S

Proprietors' capital accounts.....	\$20,406.36	
Advances.....	4,000.00	
Contracts payable.....	16,731.65	
Current liabilities:		
Notes payable.....	\$ 420.00	
Accounts payable.....	7,162.81	
accruals.....	2,954.37	10,537.18
Deferred liabilities-franchise tax.....		3,161.46
Proprietors' personal property (see contra).....		3,401.53
	Total Liabilities....	<u>\$65,839.15</u>

The right under which the present operators have been conducting their auto truck business and which they now propose to transfer to the corporation was purchased by them for \$2,000.00 from Soren Sorenson pursuant to the authority granted by Decision No. 23127, dated November 28, 1930, in Application No. 17021. The right originally was established by Decision No. 9151, dated June 24, 1921, in application No. 6608, in which the Commission granted to one J. L. Edelblute the certificate of public convenience and necessity for the operation-

\*\*\*\*\*of auto freight truck service between Santa Barbara and Santa Ynez, serving Gaviota, Las Cruces, Buell, Solvang and Los Olivas as intermediate points."

Subsequently the certificate was transferred by Florecia Edelblute, administratrix of the estate of John L. Edelblute, to Soren Sorenson, as permitted by Decision No. 15326, dated August 21, 1925, in Application No. 11594.

The operative properties consist of ten trucks and five trailers. Applicants report their original cost at \$49,000.17 and their estimated present value at \$41,754.98, as set forth in some detail in a statement filed with the Commission on December 7, 1932.

Applicants report that the proprietors' personal property carried among the assets at \$3,401.53 will not be transferred to the corporation nor will the liability items of like amount be carried on to the corporation books. The remaining liabilities of the copartnership will be assumed by the corporation.

Of the \$24,000.00 of stock proposed to be issued, the application shows that \$4,000.00 will be delivered to N. J. Nelson and Peter Berbernes in payment of the advances of \$4,000.00 appearing on the liability side of the balance sheet, \$18,000.00 will be delivered to S. K. McMurray and H. C. McMurray in payment for their interests in the properties and \$2,000.00 will be sold for cash.

It appears to the Commission that the assets and earnings of the freight line are ample to support a stock issue of \$24,000.00. The order herein accordingly will so permit, with the condition that the \$2,000.00 received through the sale of the \$2,000.00 of stock shall be used by the corporation in paying in part the indebtedness to be assumed or in purchasing additional operating equipment. In making this order, the Commission is not

finding a value for the operating right nor approving the \$2,000.00 figure appearing on the balance sheet in this opinion. The Commission at this time wishes to place applicants 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 in the number of rights which may be given.

O R D E R

Application having been made to the railroad Commission for an order authorizing the transfer of auto truck operative rights and properties and the issue of \$24,000.00 of stock, and the railroad Commission being of the opinion that this is not a matter in which a public hearing is necessary, 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 \$24,000.00 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,

IT IS HEREBY ORDERED, that S. K. McMurray and H. C. McMurray be, and they hereby are, authorized to transfer to McMurray Transportation Service, Ltd. the operative rights and properties referred to in the foregoing opinion, and McMurray Transportation Service,

Ltd. be, and it hereby is, authorized to acquire such rights and properties and to assume the payment of approximately \$31,000.00 of indebtedness outstanding against such properties.

IT IS HEREBY FURTHER ORDERED, that McMurray Transportation Service, Ltd., in acquiring the rights and properties of S. K. McMurray and H. C. McMurray, as herein authorized, be, and it hereby is, authorized to issue at par not exceeding \$24,000.00 of its common capital stock, and to deliver \$4,000.00 thereof to N. J. Nelson and Peter Berbernes and \$18,000.00 thereof to S. K. McMurray and H. C. McMurray, as indicated in the foregoing opinion and in this application, and to sell \$2,000.00 thereof for cash and to use the proceeds to pay in part indebtedness to be assumed or to purchase additional operating equipment.

The authority herein granted is 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. S. K. McMurray and H. C. McMurray shall immediately unite with applicant McMurray Transportation Service, Ltd. in common supplement to the tariffs on file with the Commission covering service given under the certificate herein authorized to be transferred, S. K. McMurray and H. C. McMurray on the one hand withdrawing and McMurray Transportation Service, Ltd. on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. The rights and privileges herein authorized to be transferred 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.

4. No vehicle may be operated by McMurray Transportation Service, Ltd. 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.

5. McMurray Transportation Service, Ltd. 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, within thirty (30) 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 upon the date hereof. Under such authority no transfer may be made nor stock issued after March 31, 1933.

DATED at San Francisco, California, this 19<sup>th</sup> day of December, 1932.

W. J. [unclear]  
Leon [unclear]  
[unclear]  
M. B. [unclear]  
Fred G. [unclear]  
Commissioners.