

Decision No . 10068.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of  
 WALTER KIELHOFFER for an order grant-  
 ing permission to sell and transfer all  
 his right, title and interest in auto  
 freight truck line operated between  
 Los Angeles and Lancaster and inter-  
 mediate points to M.C. Duncan and  
 F.F. Sullivan, co-partners, and for  
 permission to discontinue his service,  
 and  
 application of M.C. Duncan and F.F.  
 Sullivan, for an order granting per-  
 mission to purchase such auto truck  
 and to operate same thereafter.

Application No. 7416.

Walter Kielhofer, in propria persona  
M.C. Duncan, for Duncan and Sullivan, co-applicants

BY THE COMMISSION:

OPINION

Walter Kielhofer has made application to the Rail-  
road Commission to sell, and Duncan and Sullivan, co-partners,  
to purchase certain rights to operate freight service between  
Los Angeles and Lancaster, now held under authority of the  
Commission by said Kielhofer.

A public hearing was held by Examiner Williams at  
Los Angeles, at which time all the parties appeared and the  
matter was duly submitted for decision.

Applicant Kielhofer asked to transfer all his rights  
to operate a freight line, as fixed in Decision No. 8742 of  
this Commission, to the applicant partnership for a consideration

of One Thousand (\$1,000.00) Dollars, not including any equipment. By Decision No. 3742 Kielhofer acquired a half interest in these rights from Duncan for a consideration of Six Hundred Fifty (\$650.00) Dollars, without equipment, and has since conducted the business successfully. His reason for selling is that he desires to devote all his equipment to the milk hauling business, which he has been authorized by the Commission to conduct, under Decision No. 9449, and other private businesses.

Applicants, the partnership, intend to assume operations and employ three new  $2\frac{1}{2}$ -ton trucks, one to be used each way daily, and the third for reserve. One partner will handle the Lancaster terminal and the other the Los Angeles terminal, and this arrangement is an improvement in the service, as Kielhofer testified he was unable to adequately supervise both terminals. The applicants appear financially able to maintain successful operation, and each has had experience in truck shipping.

In view of the testimony it appears that the transfer will be to the interest of shipping service and the consideration for the whole business, as compared with the price paid in March, 1921, for a half interest, seems fair, the transfer, as applied for, should be approved.

#### ORDER

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

- I - That the amount paid for the purchase of the property shall not be considered as a measure of value of said property before this Commission, or any other authority, for rate fixing or any purpose other than the transfer herein referred to.

- 2 - That the applicant, Walter Kielhofer, will be required to immediately cancel all tariffs and time schedules now on file with the Railroad Commission. Such cancellation to be in accordance with the provisions of General Order No. 51, and other regulations of the Railroad Commission.
- 3 - That applicants, M.O. Duncan and F.F. Sullivan, co-partners, will be required to immediately file tariffs and time schedules in their own name, or to adopt as their own, the tariff and time schedule as heretofore filed with the Railroad Commission by applicant Walter Kielhofer, all fares to be identical with those filed by applicant Walter Kielhofer.
- 4 - The rights and privileges of transfer which are hereby authorized, may not again be discontinued, sold, leased, transferred, nor assigned, unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- 5 - No vehicle may be operated by applicants, M.O. Duncan and F.F. Sullivan, co-partners, unless such vehicle is owned by them or is leased by them for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator. All employment of drivers or operators of leased cars shall be made on the basis of a contract by which the driver or operator shall bear the relation of an employee to the transportation company.

Dated at San Francisco, California, this 8<sup>th</sup>  
 day of February, 1922.

H. C. Brundage

H. S. Loveland

Charles H. Rowell

M. F. [unclear]  
 Commissioners.