

Decision No. 27787

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
WHITE TRUCK & TRANSFER COMPANY, a )  
corporation, TO SELL, and ASBURY )  
TRUCK COMPANY, a corporation, TO )  
PURCHASE AN AUTOMOBILE FREIGHT )  
LINE OPERATED BETWEEN LOS ANGELES, )  
AND WILMINGTON AND SAN PEDRO, )  
CALIFORNIA. )

Application No. 19847.

**ORIGINAL**

BY THE COMMISSION:

OPINION AND ORDER

White Truck and Transfer Company, a corporation, by Walden F. Muller, Trustee, has petitioned the Railroad Commission for an order approving the sale and transfer by them to Asbury Truck Company, a corporation, of an operating right for an automotive service for the transportation of property between the City of Los Angeles proper and steamship wharves and docks located at Los Angeles harbor, namely, Wilmington and San Pedro, and Asbury Truck Company, a corporation, has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$650.00, which is declared to be the value of the intangibles. No equipment is to be transferred.

White Truck and Transfer Company, a corporation, debtor, proposes to sell under an order of sale and order confirming sale, dated February 21, 1935, made by James L. Irwin, Special Master in the District Court of the United States, Southern District of

California, Central Division, in Case No. 23551M.

The operating right herein proposed to be transferred was created by Decision No. 18958, dated October 25, 1927, on Application 14040.

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.

Asbury Truck Company 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 <sup>reasonable</sup> /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 or value of said property for rate fixing, or any purpose other than the transfer herein authorized.
2. Applicant White Truck and Transfer Company shall within twenty (20) days after the effective date of the order unite with applicant Asbury Truck Company in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant White Truck and Transfer Company on the one hand withdrawing, and applicant Asbury Truck Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant White Truck and Transfer Company shall within twenty (20) days after the effective date of the order withdraw time schedules filed in its name with the Railroad Commission and applicant Asbury Truck Company shall within twenty (20) days after the effective date of the order file, in duplicate, in its own name time schedules covering service heretofore given by applicant White Truck and Transfer Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant White Truck and Transfer Company, 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 Asbury Truck Company 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. The authority granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 14th day of  
March, 1935.

Leon A. White

M. J. Lee

M. B. Harris

Walter W. Ware

Commissioners.