

Decision No. 28104

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CHARLES C. STRATTON and CALIFORNIA MILK TRANSPORT, INC. for approval of the transfer of operative rights for the transportation of property between Los Angeles, Norwalk, Artesia, Buena Park, Clearwater and Downey from H. C. Venable to Charles C. Stratton pursuant to sheriff's sale thereof, and for authority to transfer such operative rights from Charles C. Stratton to California Milk Transport, Inc.

Application
No. 20,049

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Charles C. Stratton has petitioned the Railroad Commission for an order approving the sale and transfer by him to California Milk Transport, Inc. of an operating right for an automotive service for the transportation of property between Los Angeles, Norwalk, Artesia, Buena Park, Clearwater and Downey, and California Milk Transport, Inc. 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 \$2000.00, which is declared to be the value of intangibles. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No.23114, on Application No.16473, the grantee being A. T. Spencer. By Decision No.27861, on Application No.19821, this right was transferred to H.C.Venable.

The right and its transfer were subject to a tax lien due the State of California and judgment thereon was rendered by the Superior court, in and for the County of Sacramento, against Spencer. Under a writ of execution issued by said court the right was sold on May 11, 1935, to Charles C. Stratton for the sum of \$2000.00, as shown by Sheriff's certificate attached to the application as "Exhibit A." The purchaser, under date of June 27, 1935, entered into a contract to sell this right to California Milk Transport, Inc. for \$2000.00, and approval of this agreement is now sought.

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.

California Milk Transport, Inc. 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 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 of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
2. Applicant California Milk Transport, Inc. shall within twenty (20) days after the effective date of the order unite with applicants C.C.Stratton and H.C. Venable in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants C.C.Stratton and H.C.Venable 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. Applicants C. C. Stratton and H. C. Venable shall within twenty (20) days after the effective date of the order withdraw time schedules filed in their names, or each of them, with the Railroad Commission, and applicant California Milk Transport, Inc. 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 applicants C.C.Stratton and H.C.Venable, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant C.C.Stratton and/or H.C. Venable, 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. 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 8th day of
July, 1935.

Leon A. Cunn

M. B. Harris

Frank P. DeWitt

Frank P. DeWitt
COMMISSIONERS.