



The consideration to be paid for the property herein proposed to be transferred is given as \$7500.00, this sum including certain trucks and equipment, the values not being segregated. The entire purchase price is to be paid within twelve months.

The operating rights herein proposed to be transferred were created by Decision No.23114, dated November 28, 1930, on Application No.16469, and thereafter transferred to Penhall Brothers, Incorporated, by Decision No.27904, dated April 22, 1935, on Application No.19854.

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.

#### O R D E R

IT IS HEREBY ORDERED that the above 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 Penhall Brothers, Incorporated, shall within twenty (20) days after the effective date of the order 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 Penhall Brothers, Incorporated, 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 Penhall Brothers, Incorporated, shall within twenty (20) days after the effective date of the order withdrew time schedules filed in its name 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 applicant Penhall Brothers, Incorporated, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Penhall Brothers, Incorporated, 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 said 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 rights 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 18<sup>th</sup> day of

July, 1935.

Leon Whitehall

M. H. Carr

M. B. Harris

Frank R. Dewey  
COMMISSIONERS.