

Decision No. 28829

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of JOE BOZOFF, doing business )  
under the fictitious name and )  
style of CALIFORNIA MILK TRANS- )  
PORTATION COMPANY to sell and )  
CALIFORNIA MILK TRANSPORT, INC., )  
a corporation, to purchase a )  
truck freight line operated )  
between the points named in )  
Decisions No. 21065, 23404 and )  
23429. )

Application No. 20546

CALIFORNIA

BY THE COMMISSION

O P I N I O N

JOE BOZOFF, operating under the name and style of CALIFORNIA MILK TRANSPORTATION COMPANY, has petitioned the Railroad Commission for an order approving the sale and transfer by him to CALIFORNIA MILK TRANSPORT, INC. of operating rights for the automotive transportation as a highway common carrier of property between various points in Los Angeles County, limited to milk, cream and the dairy products, feed and dairy supplies and CALIFORNIA MILK TRANSPORT, INC. has petitioned for authority to purchase and acquire said operating rights 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 \$100.00 which is alleged by the applicant to be the value of the intangibles. No equipment is to be transferred.

The operating rights herein proposed to be transferred were acquired under authority of Decisions Nos. 21065 of May 5, 1929, 23404 of February 16, 1931 and 23429 of February 24, 1931 on application Nos. 15548, 17057 and 17092 respectively

This appears to be a matter in which a public hearing is not necessary. The application will 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.

#### ORDER

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 for any purpose other than the transfer herein authorized.

2. Applicant, JOE BOZOFF, shall within twenty (20) days after the effective date of the order herein unite with applicant, CALIFORNIA MILK TRANSPORT, INC., in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant, JOE BOZOFF, withdrawing and applicant, CALIFORNIA MILK TRANSPORT, INC., accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant JOE BOZOFF shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant CALIFORNIA MILK TRANSPORT, INC. shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant JOE BOZOFF which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant JOE BOZOFF 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 obtained.

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 herein 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 15th day of May, 1936.

W B Davis  
Leon O'Rourke  
W A Cunn  
Walter H. ...  
James R. ...  
Commissioners