

Decision No. 29118

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
A.W.NICKELL, doing business as
NICKELL TRANSFER COMPANY, to lease
to R.T.CHRISTMAS and J.L.MCADAM
and of the latter to lease from the
former, his auto truck freight line
between San Francisco, Los Angeles
and intermediate points.

Supplemental
Application No. 20538

ORIGINAL

BY THE COMMISSION:

O P I N I O N

A.W.Nickell, operating under the name and style of Nickell Transfer Company, holds an operating right for the transportation of household goods both new and second hand, office furniture and personal effects between San Francisco, Oakland, Los Angeles and intermediate points by virtue of prescriptive right as confirmed by decision numbers 25261 and 26993, dated October 17, 1932 and April 30, 1934 respectively.

Subsequently, by decision No. 28507 dated January 20, 1936, Nickell, because of ill health and inability to continue, was authorized to suspend all his operations until June 30, 1936. On May 7, 1936, Nickell filed an application to lease his operating right to R.T.Christmas and J.L.McAdam but died before said leasing arrangement was consummated. Rena Nickell, administratrix of his estate then sought and was granted further suspension of service until September 30, 1936 by decision No. 28931, dated June 29, 1936.

Various difficulties having been overcome, Rena Nickell now makes supplemental application to lease the operating right of A.W.Nickell to R.T.Christmas and J.L.McAdam.

In the proposed lease and modifications thereof, applicant Rena Nickell, as administratrix of the estate of A.W.Nickell, deceased, is to lease the operating right for a period of two (2) years

commencing on the effective date of the order of the Railroad Commission approving the lease, lessees having the option to renew this lease for an additional three (3) years by giving to lessor written notice of their intention so to do at least thirty (30) days prior to the termination of the original two (2) year period.

Lessee shall pay to lessor throughout the term of this lease amounts equivalent to 3% of the first one thousand dollars (\$1,000.00) of gross receipts derived from the operation of such transportation service during any one month and 2% of all gross receipts in excess of one thousand dollars (\$1,000.00). Payment of such sums shall be made by lessees monthly (the gross receipts for each month shall be computed separately) and the amount payable by lessees to lessor shall in no event be less than thirty dollars (\$30.00) per month payable in advance regardless of the amount of the gross receipts.

Provision is also made in the agreement for protection of lessees in further disposition of this operating right and further provides for exercise of option to purchase said right by said lessees and provides for the termination of the lease upon the consummation of any sale.

No equipment is to be transferred.

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

O R D E R

IT IS HEREBY ORDERED that Rena Nickell, administratrix of the estate of A.W.Nickell, deceased, be and she is hereby authorized to lease to R.T.Christmas and J.L.McAdam an operating right for the transportation, as a highway common carrier, of new and second hand household goods, office furniture and personal effects between San Francisco, Oakland, Los Angeles and intermediate points as specifically set forth in decision heretofore referred

to in accordance with the terms of Exhibit A and supplement attached to and made a part of the application and supplement heretofore. referred to subject to the following conditions:

1. Applicant Rena Nickell shall within ten (10) days from date hereof file with this Commission a copy of the Court Order appointing her as administratrix of the estate of A. W. Nickell deceased.

2. The consideration to be paid for the property herein authorized to be leased 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 lease herein authorized.

3. Applicant Rena Nickell shall within twenty (20) days after the effective date of the order herein unite with applicants R.T.Christmas and J.L.McAdam in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be leased, applicant Rena Nickell withdrawing and applicants R.T.Christmas and J.L.McAdam accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Rena Nickell shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in her name with the Railroad Commission and applicants R.T.Christmas and J.L.McAdam shall within twenty (20) days after the effective date of the order herein file, in duplicate, in their own names time schedules covering service heretofore given by applicant Rena Nickell which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Rena Nickell or time schedules satisfactory to the Railroad Commission.

5. 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.

6. No vehicle may be operated by applicants R.T.Christmas and J.L.McAdam unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. The authority herein granted to lease 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 nine (9) days from date hereof.

Dated at San Francisco, California, this 21st day of September, 1936.

M. B. Harris

Leon Whitney

M. A. Cain

Walter H. H. H.

COMMISSIONERS