

Decision No. 30657

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PIONEER TRUCK & TRANSFER Company of)
Los Angeles and FRANCIS B. COBB as)
Trustee in Bankruptcy of PIONEER)
TRUCK COMPANY of Los Angeles to sell)
and CHARLES L. ADLEY to purchase auto)
truck operative rights for the trans-)
portation of freight between Los)
Angeles and Los Angeles Harbor.)

Application No. 21770

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By this application Pioneer Truck and Transfer Company of Los Angeles, a corporation, Francis B. Cobb, as trustee in bankruptcy, and Charles L. Adley, as purchaser at a court sale, request that the Commission give its approval to a court sale of an operative right, made in a bankruptcy proceeding. The order confirming such sale specifically states that Commission approval should be obtained.

The order confirming the sale, marked Exhibit "A" and attached to and made a part of the application, sets forth the purchase price as \$750, which is declared to be the value of the intangibles. No equipment is involved.

The operative right referred to had its origin in a prescriptive right in the name of Pioneer Truck & Transfer Company of Los Angeles for the transportation of property between the fixed termini of Los Angeles and the steamship wharves and docks at Los Angeles Harbor, that is, Wilmington and San Pedro, established by good faith operation prior to May 1, 1917, and continuously since that time, as recognized and confirmed by the Commission's Decision No. 12223, dated November 14, 1923, in Case No. 1271. Subsequently, by Decision No. 22580, dated June 25, 1930, on Application No. 16542,

Pioneer Truck & Transfer Company of Los Angeles was authorized to transfer this prescriptive right to Pioneer Truck Company of Los Angeles, a corporation. By authority of Decision No. 24554, dated March 7, 1932, on Application No. 17985, Pioneer Truck & Transfer Company of Los Angeles reacquired this operating right together with certain pieces of equipment and was further authorized to issue and deliver in full payment thereof \$15,000 of its common capital stock and to issue in addition \$2 of its common capital stock at par for cash and use the proceeds for working capital.

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

Charles L. Adley 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 ORDERED that approval of the court sale, as contemplated by the order confirming the sale, is hereby granted, subject to the following conditions:

1. The consideration paid for the operative right involved 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 approval herein granted.
2. Applicant Pioneer Truck & Transfer Company shall within twenty (20) days after the effective date of the order unite with Charles L. Adley in common supplement to the tariffs on file with the Commission, covering service given under the operative right involved, applicant Pioneer Truck & Transfer Company withdrawing and applicant Charles L. Adley accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Pioneer Truck & Transfer Company shall within twenty (20) days after the effective date of this order withdraw all time schedules filed in its name and applicant Charles L. Adley shall within twenty (20) days after the effective date of this order file, in duplicate, in his own name time schedules covering service heretofore given by applicant Pioneer Truck & Transfer Company which time schedules shall be identical with the time schedules now on file in the name of applicant Pioneer Truck & Transfer Company or time schedules satisfactory to the Commission.

4. The rights and privileges involved herein may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless written consent of the Commission has first been obtained.

5. No vehicle may be operated by applicant Charles L. Adley unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Commission.

6. The approval herein granted 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.

7. Applicant Charles L. Adley shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

This order shall be effective immediately.

Dated at San Francisco, California, this 28th day of

February, 1938.

[Signature]
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COMMISSIONERS