

Decision No. 31217.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of the application of the
City Transfer & Storage Company (a Cor-
poration) to sell and the Bekins Van
Lines, Inc., to purchase auto truck
line operated between Long Beach, Cali-
fornia, and various points in Southern
California.

Application No. 20035.

C. P. Von Herzen, for Applicants.

Ellis Brown, for Triangle Transfer & Storage
Company, Protestant.

BY THE COMMISSION:

O P I N I O N

The above entitled application was filed by City Trans-
fer and Storage Company, a corporation, to sell and Bekins Van Lines,
Inc., to purchase the operative rights of the former between Long
Beach and various points in Southern California. On May 5th, 1938,
an amended application was filed, substituting Lyon Van Lines, Inc.
as purchaser, in lieu of Bekins Van Lines, Inc.

A public hearing in this matter was conducted by Examiner
Gorman at Los Angeles on May 13th, 1938, at which time the matter
was duly submitted.

The operating rights created by Decision No. 15085, dated
June 22nd, 1925, on Application No. 9831, proposed to be transferred
herein, provide for the operation by City Transfer and Storage Com-
pany of an automotive truck line as a common carrier of new and
second-hand office furniture and equipment, house furniture, house-
hold goods, pianos, musical instruments, trunks and personal effects
(as a part of and in connection with household goods), all crated

and uncrated, in truckload lots, over four routes and all intermediate points in each route as follows:

- (1) Long Beach to Santa Barbara, via Ventura;
- (2) Long Beach to Bakersfield, via Lebec;
- (3) Long Beach to San Bernardino and Mecca, via El Monte or Santa Ana Canyon;
- (4) Long Beach to San Diego, via Santa Ana and including a distance of 25 miles on either side of the highway on routes 1 to 4, inclusive; provided that all movements shall be from residence to residence, residence to warehouse or warehouse to warehouse, and that each movement must, in every instance, have its origin or destination in Long Beach as one terminal.

The principal purpose of conducting a public hearing in this matter was to ascertain whether or not the vendor, as a result of non-operation, has abandoned the operating rights proposed to be transferred.

Vendor submitted a list showing a total of 59 movements of household goods and office furniture between points on the various routes involved, during the period February, 1936, to April, 1938.

A copy of the agreement of sale and transfer between City Transfer and Storage Company and Lyon Van Lines, Inc. is attached to the amended application as Exhibit "A" and provides for the sale and transfer of the operating rights, only, as created by Decision No. 15085, for the sum of \$500.00.

Ellis Brown, a co-partner of the Triangle Transfer and Storage Company, protested the granting of the application, in so far as it related to the transfer of the operating right between Long Beach and San Diego, on the grounds that there was not sufficient business to support a new active operator; that City Transfer and Storage Company had made little use of its certificate; that Lyon Van Lines, Inc. had been denied a certificate between Los Angeles and San Diego and that Lyon Van Lines, Inc. had no prior

rights between Long Beach and San Diego.

The evidence introduced in this proceeding indicates that vendor has made active use of the operating rights involved and that the transfer of such rights would not add another carrier in the transportation field but merely substitute one carrier for another.

After carefully considering all of the evidence in this proceeding, we are of the opinion and hereby conclude that the application should be granted.

Lyon Van Lines, 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 as to the number of rights which may be given.

O R D E R

The above entitled application having been filed and the matter having been heard and duly submitted;

IT IS HEREBY ORDERED that the above entitled application, as amended, 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 City Transfer and Storage Company shall within twenty (20) days after the effective date of the order herein unite with applicant Lyon Van Lines, Inc. in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred,

applicant City Transfer and Storage Company withdrawing and applicant Lyon Van Lines, Inc. accepting and establishing such tariffs and all effective supplements thereto.

- (3) Applicant City Transfer and Storage Company shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in its name with the Railroad Commission and applicant Lyon Van Lines, 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 City Transfer and Storage Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant City Transfer and Storage Company, 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 Lyon Van Lines, 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 said right 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 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.

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

Dated at San Francisco, California, this 22nd day of August, 1938.

Ray W. Johnson
Leon G. Hill
Frank Hill

Commissioners.