

Decision No. 31405

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of)
DUANE D. STAFFORD to transfer to)
PERCIE C. THACKER one half interest in)
the business of Stafford and Thacker,) Application No. 22270
co-partners conducting property trans-)
portation under certificate of author-)
ity therefor.)

BY THE COMMISSION:

O P I N I O N A N D O R D E R

This is an application by Duane D. Stafford and Percie C. Thacker, co-partners doing business under the firm name and style of Pioneer Truck & Transfer Company, for an order authorizing Duane D. Stafford to transfer his one-half interest in the partnership properties to Percie C. Thacker.

It appears that applicants are engaged in operating a highway common carrier business under a certificate of public convenience and necessity granted by the Commission by Decision No. 30501, dated January 3, 1938, in Application No. 20923, for the transportation of farm, field and orchard produce between Imperial Valley points and Los Angeles, a public utility-warehouse business in El Centro and a radial common carrier and highway contract carrier business.

On or about October 1, 1938, applicants agreed upon a dissolution of the co-partnership whereby Duane D. Stafford agreed to assign to Percie C. Thacker all of his right, title and interest in the property of the co-partnership in consideration of the sum of \$10,000 payable \$3,000 in cash upon the execution of the agreement between the two partners (Exhibit A) and \$7,000 by a promissory note payable in installments of \$100 a month commencing November 1,

1939, with interest at the rate of six per cent per annum, payment to be secured by a deed of trust. A copy of the proposed deed of trust has been filed in this proceeding as Exhibit C.

The Commission has given this matter consideration and is of the opinion that a public hearing is not necessary and that the application should be granted as herein provided. In making the order, however, the Commission wishes to place applicants 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.

IT IS HEREBY ORDERED that Duane D. Stafford be and he hereby is authorized to transfer and assign to Percie C. Thacker on or before December 31, 1938, his one-half interest in the certificate of public convenience and necessity granted by Decision No. 30501, dated January 3, 1938, in Application No. 20923, and in the physical properties referred to in this application, such transfer and assignment to be in accordance with the terms and conditions of the agreement dated October 1, 1938, filed as Exhibit A.

IT IS HEREBY FURTHER ORDERED that Percie C. Thacker and Margretta Thacker be and they hereby are authorized to execute on or before December 31, 1938, a deed of trust in, or substantially in, the same form as that filed as Exhibit C, and to issue a promissory note in the principal amount of \$7,000 payable in monthly installments of \$100 or more commencing November 1, 1939, with interest at the rate of six per cent per annum, in part payment for

the aforesaid one-half interest of Duane D. Stafford, it being the opinion of the Commission that the money, property, or labor to be procured or paid for through the issue of said note is reasonably required for the purpose specified herein, and that the expenditure for said purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is 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. Applicants Duane D. Stafford and Percie C. Whacker, shall join within twenty (20) days after the effective date of this order, in common supplement to the tariffs on file with the Commission covering service given by said applicants, Duane D. Stafford and Percie C. Whacker as co-partners withdrawing and Percie C. Whacker accepting and establishing as his own, such tariffs and all effective supplements thereto.
3. Applicant Percie C. Whacker shall, within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name, time schedules covering service heretofore given by applicants Duane D. Stafford and Percie C. Whacker, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of said applicants, 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, Percie C. Whacker, unless such vehicle is owned by said applicant or is leased by him 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.

7. Percie C. Thacker shall, prior to the commencement of service as authorized herein and continuously thereafter, comply with all of the provisions of the Commission's General Order No. 91.
8. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is given only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which it may be subject.
9. Percie C. Thacker within thirty (30) days after the issue of the note herein authorized shall file a copy thereof with the Railroad Commission.
10. The authority herein granted shall become effective when Percie C. Thacker has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five dollars (\$25).

Dated at San Francisco, California, this 31st day of

October, 1938.

Raymond A. ...
Leon ...
Frank ...
W. L. Riley

 COMMISSIONERS

\$25⁰⁰
 RECEIVED BY COMMISSION
 STATE OF CALIFORNIA
 NOV 10 1938
 Fee # 34237
R. M. ...