

Decision No. 32281

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J. E. VAN MARTER and J. R. ZIMMERMAN, co-partners, doing business under the name and style of MAYFLOWER WAREHOUSES, to sell, and CITY TRANSFER & STORAGE COMPANY, a corporation, to purchase auto truck operative rights for the transportation of freight between Los Angeles and Los Angeles Harbor and various points in California.

ORIGINAL

Application No. 22928

BY THE COMMISSION:

O P I N I O N

J. E. Van Marter and J. R. Zimmerman, co-partners, doing business under the name and style of Mayflower Warehouses, have petitioned the Railroad Commission for an order approving the sale and transfer by them to City Transfer & Storage Company, a corporation, of operative rights for the automotive transportation, as a highway common carrier of property, between Los Angeles, Los Angeles Harbor and other points in Southern California; and City Transfer & Storage Company has petitioned for authority to purchase and acquire said operative rights and to hereafter operate thereunder. The sale and transfer is to be in accordance with the terms of 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 stated to be \$500, all of which is alleged to be the value of the intangibles.

The operative rights herein proposed to be sold and transferred are those rights acquired by applicants Van Marter and Zimmerman under the authority of the Commission's Decision No. 31279, dated September 19, 1938. No equipment is involved in this transfer.

The authority herein requested appears to be in the public interest and will be granted. It further appears that a public hearing is not necessary.

City Transfer & Storage Company 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 applicants J. H. Van Marter and J. R. Zimmerman, co-partners, doing business under the name and style of Mayflower Warehouses, are hereby authorized to transfer to City Transfer & Storage Company, a corporation, the operative rights heretofore acquired by applicants Van Marter and Zimmerman by virtue of the Commission's Decision No. 31279; and City Transfer & Storage Company is hereby authorized to acquire said operative rights and to hereafter operate thereunder, subject to the following conditions:

1. The authority 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.
2. 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.
3. Applicants Van Marter and Zimmerman shall within twenty (20) days after the effective date of the order herein, unite with applicant City Transfer & Storage Company in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Van Marter and Zimmerman withdrawing and applicant City Transfer & Storage Company accepting and establishing such tariffs and all effective supplements thereto.
4. Applicants Van Marter and Zimmerman shall within twenty (20) days after the effective date of the order herein, withdraw all time schedules filed in their names with the Railroad Commission, and applicant City Transfer & Storage Company 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 applicants Van Marter and Zimmerman, which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Van Marter and Zimmerman, 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 applicant City Transfer & Storage Company 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.
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 30<sup>th</sup> day of

August, 1939.

Richard W. Adams  
James H. Allen

Justus J. Craven  
 COMMISSIONERS