

Decision No. 32290

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASBURY TRUCK COMPANY, to sell, and ASBURY TRANSPORTATION CO., to purchase an automobile freight line operated within State of California, as more particularly hereinafter set forth.

} ORIGINAL  
} First Supplemental  
} Application No. 22804

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

On June 27, 1939 the Commission issued its Decision No. 32107 in this proceeding, which authorized Asbury Truck Company, a corporation, to transfer to Asbury Transportation Co., a corporation, and said Asbury Transportation Co. was authorized to acquire, certain highway common carrier operative rights, as more particularly described in the opinion of said Decision No. 32107. Such authority was granted subject to the condition that it would lapse and become void if the conditions attached thereto were not complied with within the times fixed in the order of said Decision No. 32107. Condition No. 4 of said order has not been complied with, and the authority for the transfer granted by said Decision No. 32107 is now void.

On August 25, 1939, applicants filed a supplemental application requesting an order of the Commission restating and regranting the authority set forth in said Decision No. 32107, for the purpose of permitting applicants to proceed under such authority and to fully comply with all of the conditions set forth in said order.

In support of such request, applicants allege that for the purpose, and with the intent of fully complying with the conditions

of the order of said Decision No. 32107, applicants filed with the Commission an instrument adopting all tariffs, rules, notices, concurrences, etc. theretofore filed with the Commission by applicant Asbury Truck Company. Applicants further allege that they were informed and believed that said instrument was all embracing and fully complied with the conditions set forth in the order of said Decision No. 32107; and, that applicants had no knowledge of any defect or infirmity in said instrument, or that it failed to meet the requirements of the Commission, until notified in writing.

FIRST SUPPLEMENTAL ORDER

Good cause appearing,

IT IS ORDERED that the order contained in Decision No. 32107, dated June 27, 1939, in the above-entitled proceeding, and each and all of the terms and provisions thereof, be and they are hereby adopted and made a part hereof, by reference, to the same extent and with the same force and effect as though the same were here set forth in full; and

IT IS FURTHER ORDERED that, in lieu of the conditions contained in the order of said Decision No. 32107, the following conditions be, and they are hereby adopted and made a part hereof, to-wit:

- I. The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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. Applicant Asbury Truck Company shall within thirty (30) days after the effective date of the order herein and upon not less than one (1) day's notice to the Commission and the public unite with applicant Asbury Transportation Co. in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicant Asbury Truck Company withdrawing and applicant Asbury Transportation Co. accepting and establishing such tariffs and all effective supplements thereto.
4. Applicant Asbury Truck Company shall within thirty (30) days after the effective date of the order herein and upon not less than one (1) day's notice to the Commission and the public, withdraw all time schedules filed in its name with the Railroad Commission and applicant Asbury Transportation Co. shall within thirty (30) days after the effective date of the order herein and upon not less than one (1) day's notice to the Commission and the public file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Asbury Truck Company which time schedules shall be 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 Asbury Transportation Co. 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.
8. Applicant Asbury Transportation Co. shall keep its general books of account in the state of California.

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.

Raymond A. [Signature]  
State [Signature]

Justice F. [Signature]  
 COMMISSIONERS