

Decision No. 22405

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GERTRUDE K. BRINKMAN to transfer to
G. A. BRINKMAN certificate of public
convenience and necessity for opera-
tion of motor trucks in the transpor-
tation of property for hire.

ORIGINAL

Application No. 23001

BY THE COMMISSION:

O P I N I O N

Gertrude K. Brinkman has petitioned the Railroad Commission for an order approving the sale and transfer by her to G. A. Brinkman of an operating right for the automotive transportation as a highway common carrier of property, between Pomona and Chino area and Los Angeles, as more particularly described in Decision No. 22428, on Application No. 16174. G. A. Brinkman has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder. The sale and transfer is to be in accordance with 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 given as \$500. Of this sum, \$400 is alleged by the applicant to be the value of the equipment and \$100 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was acquired by Gertrude K. Brinkman under authority of the Commission's Decision No. 24746, dated May 2, 1932, on Application No.

18049, as modified by Decision No. 31434, dated November 5, 1938, on Application No. 22233.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted.

G. A. Brinkman 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 or rights which may be given.

O R D E R

IT IS ORDERED that Gertrude K. Brinkman is hereby authorized to transfer to G. A. Brinkman, and G. A. Brinkman is hereby authorized to acquire the operative rights referred to in the foregoing opinion, in accordance with the terms of the agreement marked Exhibit "A" attached to the application herein, and to hereafter operate thereunder, subject to the following conditions:

1. The authority herein granted to sell and transfer 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. Applicant G. K. Brinkman shall within thirty (30) days after the effective date of the order herein, on not less than five (5) days' notice to the Commission and the public, unite with applicant G.A. Brinkman in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant G. K. Brinkman withdrawing and applicant G. A. Brinkman accepting and establishing such tariffs and all effective supplements thereto.
4. Applicant G. K. Brinkman shall within thirty (30) days after the effective date of the order herein withdraw all time schedules filed in her name with the Railroad Commission and applicant G. A. Brinkman shall within thirty (30) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicant G. K. Brinkman, 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 G. A. Brinkman 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.
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 3rd day of October, 1939.

Raymond
Frank
Ray
W. Ball
Justice J. Coenen
 COMMISSIONERS