

Decision No. 32753

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MARY J. TUCKER to sell and E.
A. TUCKER and B. H. TUCKER to pur-
chase auto truck freight line
operated between Corona and Los
Angeles Harbor district, and be-
tween Corona and Los Angeles.

}
} Application No. 23221
}

BY THE COMMISSION:

O P I N I O N

Mary J. Tucker has petitioned the Railroad Commission for an order approving the sale and transfer by her to E. A. Tucker and B. H. Tucker of automotive equipment and operating rights, for the automotive transportation as a highway common carrier of specified commodities, between Corona and Los Angeles Harbor district and between Corona and Los Angeles. E. A. Tucker and B. H. Tucker have petitioned for authority to purchase and acquire said equipment and operating rights and to hereafter operate thereunder, the sale and transfer 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 \$2,000, all of which sum is alleged by the applicant to be the value of the equipment.

The operating rights herein proposed to be transferred are those which were acquired by Mary J. Tucker under the authority of

the Commission's Decision No. 20580, dated December 13, 1928, on Application No. 15257.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

E. A. and B. H. Tucker are 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 Mary J. Tucker is hereby authorized to transfer to E. A. Tucker and B. H. Tucker, and E. A. Tucker and B. H. Tucker are 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 shall lapse and be void if applicants 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 Mary J. Tucker shall within twenty (20) days after the effective date of the order herein unite with applicants E. A. Tucker and B. H. Tucker in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Mary J. Tucker withdrawing, and applicants E. A. and B. H. Tucker accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Mary J. Tucker shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in her name with the Railroad Commission, and applicants E. A. and B. H. Tucker shall within twenty (20) days after the effective date of the order herein file, in duplicate, in their own names time schedules covering service heretofore given by applicant Mary J. Tucker, which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Mary J. Tucker, 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 applicants E. A. and B. H. Tucker unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. Applicants 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 Los Angeles, California, this 23rd day of January, 1940.

Ray L. Rice
James R. Miller
Harvey A. ...
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Justin J. Casner
COMMISSIONERS