

Decision No. 23423

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MONO BASIN TRANSPORT, INC., to sell and)
WESTERN TRUCK LINES, LTD. to purchase) Application No. 23423
automobile freight line operated between)
the Nevada-California State Line and)
Mono Lake (Tioga Lodge) on Highway 395)

PEIL JACOBSON, for Applicant

HUGH GORDON, for Alexander and Larson,
doing business as High Sierras Transport
Company, Interested Party.

BY THE COMMISSION:

O P I N I O N .

Mono Basin Transport, Inc., a corporation, in this application has petitioned the Railroad Commission for an order approving the sale and transfer by it to Western Truck Lines, Ltd., a corporation, of an operative right for the automotive transportation as a highway common carrier of property between a point on the Nevada-California State Line near Topaz and Farrington and intermediate points. Western Truck Lines, Ltd. has petitioned for authority to purchase and acquire such operative right and hereafter to operate thereunder.

A public hearing thereon was had before Commissioner Craemer and Examiner Paul, at Bishop, on April 26, 1940, and the matter having been taken under submission is now ready for decision. No one opposed the granting of the authority requested.

The sale and transfer is to be made in accordance with an option 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 proposed to be transferred is shown to be \$5,000. No equipment is involved in the proposed transfer.

Applicants request that if their petition herein is approved by the Commission that it be made effective at such time as the Interstate Commerce Commission approves the sale and transfer of interstate motor carrier operative rights of Mono Basin Transport, Inc. to Western Truck Lines, Ltd., involving the same California points. However, it appears advisable to fix an effective date of the authority herein granted which date may, upon appropriate application therefor by applicants, be extended to allow ample time for the issuance of any appropriate order by the Interstate Commerce Commission.

Western Truck Lines, Ltd. has requested that it be authorized to acquire the operative rights of Mono Basin Transport, Inc., involved herein, as an extension and enlargement of the present operative rights of Western Truck Lines, Ltd. between Los Angeles and June Lake and Silver Lake, via June Lake Junction. The rights proposed to be transferred are those created by the Commission's Decision No. 22576, on Application No. 16565. An examination of that decision discloses that the southerly terminus of Mono Basin Transport, Inc.'s operative right is at Farrington which is located about seven miles northerly from June Lake Junction. In order to effect a consolidation of Mono Basin Transport, Inc.'s operative right with that of Western Truck Lines, Ltd. the application was amended at the hearing to request an extension of Mono Basin Transport, Inc.'s operative right from Farrington to June Lake Junction with an alternate route operation between Farrington and Silver Lake via Grant Lake.

Decision No. 22576 created an operative right for the transportation of passengers, freight, express, and baggage between a point on the Nevada-California State Line north of Topaz, and Farrington, and intermediate points, as well as between other points. By Decision No. 27767, as modified by Decision No. 27866, both on Application No. 19664, the Commission authorized M. C. Yahne, Inc., a corporation, to acquire the operative right for the transportation of passengers, baggage and express, as created by said Decision No. 22576. The remaining right, for the transportation of property, is that which is herein proposed to be transferred. The right as created by Decision No. 22576 was granted to Anderson Brothers and acquired by applicant Mono Basin Transport, Inc. under the authority of the Commission's Decision No. 28237, dated September 23, 1935.

Mono Basin Transport, Inc. also acquired from Anderson Brothers (Decision No. 28237) an operative right created by Decision No. 21890, on Application No. 15869, which authorized the transportation of property between Sacramento, on the one hand, and Coleville, near the Nevada-California State Line on U. S. Highway No. 395, and Crestview and intermediate points, on the other hand. Under said Decision No. 28237, Mono Basin Transport, Inc., was also authorized to acquire an operative right created by Decision No. 27766, in Case No. 3860, which authorized the extension of service to June Lake Junction for the sole purpose of effecting an interchange of property with Western Truck Lines, Ltd. under a joint rate arrangement. Mono Basin Transport, Inc., proposes to abandon all its operative rights as created by said Decisions Nos. 21890 and 27766.

By Decision No. 32980, on Application No. 23385, Western Trucks Lines, Ltd. was granted a certificate to extend its operations to Leevining to effect an interchange with Mono Basin Transport, Inc. It proposes that the authority granted by that decision be revoked upon the granting of the authority herein requested.

From the record it appears that for many years Western Truck Lines, Ltd. has been engaged in the transportation of property as a highway common carrier, between Los Angeles and June Lake and Silver Lake, via June Lake Junction, over U. S. Highway 395, serving certain intermediate points, daily except Sundays. It is also providing an interstate motor carrier service between Los Angeles and Reno over U. S. Highway 395 daily except Sundays.

Mono Basin Transport, Inc. and its predecessor in interest Anderson Brothers have likewise been providing a tri-weekly highway common carrier service between Farrington and a point on the Nevada-California State Line north of Topaz.

If the authority herein requested is granted, the territory now served by Mono Basin Transport, Inc. will be afforded a daily except Sunday service at little additional expense by Western Truck Lines, Ltd. We are, therefore, of the opinion that it is in the public interest to authorize the extension of the present operative right of Mono Basin Transport, Inc. from Farrington to June Lake Junction and to Silver Lake and to authorize it to transfer its highway common carrier operative right between the Nevada-California State Line north of Topaz, as extended, to Western Truck Lines, Ltd. and to authorize Western Truck Lines, Ltd. to acquire such operative right as an extension and enlargement of its present operative right between Los Angeles and June Lake and Silver Lake, via June Lake Junction.

Western Truck Lines, Ltd. 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

A public hearing in the above-entitled matter having been had and the Commission now being fully informed therein,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Mono Basin Transport, Inc. of an automotive service as a highway common carrier between Farrington and June Lake Junction and intermediate points, with an alternate route between Farrington and Silver Lake, serving all points on such alternate route, as an extension and enlargement of the operative rights created by Decision No. 22576, dated June 24, 1930.

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Mono Basin Transport, Inc., a corporation.

IT IS FURTHER ORDERED that Mono Basin Transport, Inc., a corporation, is hereby authorized to transfer to Western Truck Lines, Ltd., and Western Truck Lines, Ltd. is hereby authorized to

acquire the highway common carrier operative right heretofore created by Decision No. 22576, as herein extended to June Lake Junction and Silver Lake, in accordance with the terms of the option agreement, marked Exhibit "A," attached to the application herein, as an extension and enlargement of the operative right of applicant Western Truck Lines, Ltd. between Los Angeles and Silver Lake, and hereafter to 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. Mono Basin Transport, Inc. shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, unite with applicant Western Truck Lines, Ltd. 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 Mono Basin Transport, Inc. withdrawing, and applicant Western Truck Lines, Ltd. accepting and establishing such tariffs and all effective supplements thereto. Western Truck Lines, Ltd., within thirty (30) days after the effective date of the order herein, shall file in triplicate and concurrently make effective on not less than five (5) days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements and rules of the Commission showing rates between Farrington and June Lake Junction, and between Farrington and Silver Lake and intermediate points.

4. Applicant Mono Basin Transport, Inc. shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, withdraw all time schedules filed in its name with the Railroad Commission and applicant Western Truck Lines, Ltd. shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, file in triplicate, in its own name, time schedules covering service heretofore given by applicant Mono Basin Transport, Inc. 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 Western Truck Lines, Ltd. 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 the provisions of this Commission's General Order No. 91.

The effective date of this order shall be sixty (60) days from the date hereof.

Dated at San Francisco, California, this 6th day of May, 1940.

Ray L. Rice
Frank H. Hume
Ray B. Hume
H. H. Hume
Justus J. Coe
COMMISSIONERS