

Decision No. 23479

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of UNION)
TRANSFER & STORAGE COMPANY OF LOS ANGELES)
for the transfer of the operative rights)
and the certificate of public convenience)
and necessity of CALIFORNIA MILK TRANSPORT)
INC. for the transportation of general)
freight between Los Angeles, California,)
and Artesia, California, and the inter-)
mediate points of Downey, California, and)
Norwalk, California, only.)

ORIGINAL

Application
No. 23479

BY THE COMMISSION:

O P I N I O N

California Milk Transport, Inc., a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Union Transfer & Storage Company of Los Angeles, a corporation, of an operative right for the automotive transportation, as a highway common carrier, of property between Los Angeles and Artesia and the two intermediate points of Downey and Norwalk. Union Transfer & Storage Company of Los Angeles has petitioned for authority to purchase and acquire said operative right and hereafter to operate thereunder. The sale and transfer is to be made in accordance with an oral agreement as set forth in the application. The consideration to be paid for the property herein proposed to be transferred is given as \$1500, all of which is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred was created by the Commission's Decision No. 31927, dated April 13, 1939, in Application No. 20833, ⁽¹⁾ as shown in the declaration of the

(1) The application herein refers to the operative right involved as being that which was granted to A. T. Spencer by Decision No. 23114 (35 C.R.C. 501) and subsequently acquired by California Milk Transport, Inc. under authority of the Commission's Decision No. 28106. It should be observed that the right herein involved is a certificate de novo granted by Decision No. 31927 in lieu of the right theretofore granted by Dec. 23114.

Commission at sheet 9 of said Decision which authorized the establishment of "...a highway common carrier freight, without restriction as to commodities, between Los Angeles and Artesia and the two intermediate points of Downey and Norwalk over a route to be hereafter fixed by supplemental order..."⁽²⁾ Subsequently, by Decision No. 32118, dated June 27, 1939, on Application No. 22807, California Milk Transport, Inc. was authorized to abandon the transportation of livestock between Los Angeles and Artesia and the intermediate points of Downey and Norwalk.

Applicant Union Transfer & Storage Company of Los Angeles herein has indicated that it is particularly desirous of providing service to and from the plant of the Vultee Aircraft Division Aviation Manufacturing Corporation, at 842 Lakewood Boulevard, Downey, that confusion has arisen as to whether said Vultee plant is within the unincorporated area known as Downey; and asks that the Commission specifically include said plant as a point authorized to be served by it upon the acquisition of the operative right involved.

At this time it does not appear to be appropriate in this ex parte order to do other than to authorize the transfer of whatever operative right flows from the authority granted by Decision No. 31927, as hereinabove referred to.

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

(2) Decision No. 31927 also granted to applicant California Milk Transport, Inc. certain operative rights for the transportation of milk which in no way are involved in this application.

Union Transfer & Storage Company of Los Angeles 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 California Milk Transport, Inc., a corporation, is hereby authorized to transfer to Union Transfer & Storage Company of Los Angeles, a corporation, and Union Transfer & Storage Company of Los Angeles is hereby authorized to acquire the operative right referred to in the foregoing opinion in accordance with the terms of the agreement set forth in the application. Such authority shall not be construed as authorizing the consolidation of such operative right with the presently owned operative rights of Union Transfer & Storage Company of Los Angeles. The authority herein granted is 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 California Milk 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 Union Transfer & Storage Company of Los Angeles 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 California Milk Transport, Inc. withdrawing, and applicant Union Transfer & Storage Company of Los Angeles accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant California Milk 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 Union Transfer & Storage Company of Los Angeles 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 California Milk 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 Union Transfer & Storage Company of Los Angeles 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 the date hereof.

Dated at San Francisco, California, this 20th day of

August, 1940.

Raymond A. Rice
Frank D. Miller
Raymond A. Rice
H. B. Baker
Justin I. Cramer
COMMISSIONERS