

Decision No. 32743

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of H. Frasher, an individual, and Frasher Truck Co., a corporation, to sell and Valley Motor Lines, Inc., a corporation, to purchase certain highway common carrier freight lines operated between points in California, and to issue capital stock in payment therefor.

ORIGINAL

Application No. 23816

Willard S. Johnson, for Applicant

BY THE COMMISSION:

O P I N I O N

H. Frasher and Frasher Truck Co. ask permission to sell to Valley Motor Lines, Inc. the operative rights and physical properties described in this application to which reference will be made hereafter. Valley Motor Lines, Inc., in turn, asks permission to acquire said operative rights and physical properties and to issue in payment for said physical properties \$23,000 par value (230 shares) of its common capital stock.

H. Frasher is an individual engaged in the transportation of properties as a highway common carrier between Fresno and San Joaquin and certain other points mentioned in Decision No. 13691, dated June 12, 1924, in Application No. 9564, and between Fresno and Tulare and certain other points mentioned in Decision No. 27535, dated November 15, 1934, in

Application No. 6673. He desires to sell to Valley Motor Lines, Inc. the certificates of public convenience and necessity granted to him by said Decision No. 13691, and by said Decision No. 27535, and the motor vehicle equipment, furniture, and fixtures used by him in connection with said certificates of public convenience and necessity. The motor vehicle equipment consists of a tractor and a trailer having a present value of \$2,372. Valley Motor Lines, Inc. has agreed to issue to E. Frasher \$3,231 par value of common stock in payment for said operative rights and properties.

Frasher Truck Co. is a corporation organized under the laws of California and is engaged in the transportation of property as a highway common carrier. It desires to sell to the Valley Motor Lines, Inc. a certificate of public convenience and necessity acquired by it under the authority granted by Decision No. 29412, dated December 28, 1936, in Application No. 20921, together with the operative rights acquired by it under Decision No. 27545, dated November 26, 1934, and by Decision No. 32565, dated November 14, 1939, in Application No. 19666. It further desires authority to sell to the Valley Motor Lines, Inc. a certificate of public convenience and necessity acquired under the authority granted by Decision No. 29585, dated March 8, 1937, in Application No. 21022, together with the rights acquired under Decision No. 30839, dated May 9, 1938, in Application No. 20274. Frasher Truck Co. also proposes to transfer to Valley Motor Lines, Inc. in exchange for 197.69 shares of the capital stock of Valley Motor Lines, Inc. all motor vehicle equipment, tools, parts, furniture and fixtures used by it in the conduct of its transportation business. The present value of the motor equipment, which it has agreed to transfer to Valley Motor Lines, Inc., is reported

at \$34,533.

The Frasher Truck Co. has \$15,000 of capital stock outstanding. Of the outstanding stock, E. Frasher owns six-sevenths and his brother, G. R. Frasher, one-seventh.

For 1939, the Frasher Truck Co. reported operating revenues of \$79,638.30 while H. Frasher reported operating revenues of \$8,968.20. It is of record that H. Frasher owns a substantial part of the outstanding stock of the Valley Motor Lines, Inc., and that the Interstate Commerce Commission has urged H. Frasher and Frasher Truck Co. to transfer their operative rights and operative properties to Valley Motor Lines, Inc. An application to accomplish this end has been filed with the Interstate Commerce Commission.

The testimony shows that the transfer of the operative rights and properties of E. Frasher and Frasher Truck Co. to Valley Motor Lines, Inc. will result in operating economies and in more efficient management of the property.

Valley Motor Lines, Inc. 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.

The authority granted by the following order shall not be construed as consolidating the operative rights involved nor shall it be construed as consolidating such rights with those now held by Valley Motor Lines, Inc.

O R D E R

A public hearing having been held in the above entitled application before Examiner Fankhauser, and the Commission having considered the evidence submitted at such hearing and it being of the opinion that this application should be granted subject to the provisions of this order, that the issue of the stock authorized by this order is reasonably required for the purposes herein stated, and that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore

IT IS HEREBY ORDERED that H. Frasher be, and he is hereby, authorized to sell, on or before June 30, 1941, to Valley Motor Lines, Inc. the properties described in Exhibit B filed in this proceeding, and that Valley Motor Lines, Inc. may acquire and operate said properties and issue in payment therefor 32.31 shares of its common capital stock.

IT IS HEREBY FURTHER ORDERED that Frasher Truck Co. be, and it is hereby, authorized to sell, on or before June 30, 1941, to Valley Motor Lines, Inc. the properties described in Exhibit B filed in this proceeding, and that Valley Motor Lines, Inc. may acquire and operate said properties and issue in payment therefor 197.69 shares of its common capital stock.

IT IS HEREBY FURTHER ORDERED that the authority herein granted to sell the operative rights and properties are subject to the following conditions:

1. 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.

2. Applicants H. Frasher and Frasher Truck Co. shall within thirty (30) days after the effective date of the order herein unite with applicant, Valley Motor Lines, Inc., in common supplement to the tariffs on file with the Commission, covering service given under the certificates herein authorized to be transferred, applicants H. Frasher and Frasher Truck Co. withdrawing and applicant Valley Motor Lines, Inc. accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants H. Frasher and Frasher Truck Co. shall within thirty (30) days after the effective date of the order herein withdraw all time schedules filed in their name with the Railroad Commission and applicant Valley Motor Lines, Inc. shall within thirty (30) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicants H. Frasher and Frasher Truck Co., which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants H. Frasher and Frasher Truck Co. or time schedules satisfactory to the Railroad Commission.

4. 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.

5. No vehicle may be operated by applicant Valley Motor Lines, Inc. 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.

6. The authority herein granted to sell and transfer the rights and/or property 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.

7. Valley Motor Lines, Inc., prior to the commencement of the service authorized herein and continuously thereafter, shall comply with all of the provisions of this Commission's General Order No. 91.

IT IS HEREBY FURTHER ORDERED that Valley Motor Lines, Inc. shall, within thirty (30) days after the issue of the stock herein authorized, file with the Railroad Commission a report showing the number of shares of stock issued under the authority herein granted, the names of parties to whom such stock was issued, the number of shares issued to each, and the consideration received for the issue of said stock.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective contemporaneously with the effective date of the order of the Interstate Commerce Commission authorizing H. Frasher and Frasher Truck Co. to sell

their operative rights to Valley Motor Lines, Inc.

Dated at San Francisco, California, this 21st day of
December, 1940.

Ray L. Riley

J. J. Baker

James F. Caenen
Commissioners.