

Decision No. 32417

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
G. A. BRINKMAN to sell and CALIF-)
ORNIA MILK TRANSPORT, INC. to)
purchase the automobile freight)
line transporting special commod-)
ities between points in Riverside,)
San Bernardino, and Los Angeles)
Counties, State of California.)

ORIGINAL

Application No. 23995

BY THE COMMISSION:

O P I N I O N

G. A. Brinkman has petitioned the Railroad Commission for an order approving the sale and transfer by him to California Milk Transport, Inc. of a common carrier right for the transportation of dairy products between points in San Bernardino, Riverside and Los Angeles Counties. California Milk Transport, Inc. 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 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 \$5500. Of this sum, \$2550 is alleged to be the value of the equipment and \$3000 is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred was created by Decision No. 32405, dated October 3, 1939, on Application No. 23001.

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

California Milk Transport, 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.

O R D E R

IT IS ORDERED that G. A. Brinkman is hereby authorized to transfer to California Milk Transport, Inc. the common carrier operative right referred to in the foregoing opinion and California Milk Transport, Inc. is hereby authorized to acquire said operative right and hereafter to operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant 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. A. Brinkman 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 California Milk Transport, Inc. 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 G. A. Brinkman withdrawing, and applicant California Milk Transport, Inc. accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant G. A. Brinkman 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 his name with the Railroad Commission and 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, file in triplicate, in its own name, time schedules covering service heretofore given by applicant G. A. 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 California Milk Transport, 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.

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~~ ^{Los Angeles}, California, this 10th day of

February, 1941.

[Signature]
[Signature]
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 COMMISSIONERS