

ORIGINAL

Decision No. 34766

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of NEVADA CONSOLIDATED FAST FREIGHT, a corporation, to sell, and GUY S. ALEXANDER, doing business as BEACON TRANSPORT CO., to purchase highway common carrier operating rights between Los Angeles and Wheaton Springs, and for authority to abandon service on said line between Wheaton Springs and the Nevada state line.

Application
No. 24475

BY THE COMMISSION:

O P I N I O N

In this matter, Nevada Consolidated Fast Freight, a corporation, seeks authority to sell and transfer to Guy S. Alexander, doing business as Beacon Transport Co., and the latter asks leave to purchase and acquire from the former a certificate of public convenience and necessity authorizing operation as a highway common carrier between Los Angeles and the California-Nevada state line near Wheaton Springs; applicants seek approval for the abandonment of service over that portion of the line between Wheaton Springs and the state line, a distance of approximately 12 miles; and Alexander requests permission to issue evidence of indebtedness for the purchase price of such certificate, in accordance with the agreement between the parties which is set forth in the application.

The certificate sought to be transferred was acquired by applicant, Nevada Consolidated Fast Freight, on June 20, 1938. It authorizes operation as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act,

"... between Los Angeles, Colton and San Bernardino, on the one hand and all points between Yermo (but not including Yermo) and the California-Nevada State Line near Wheaton Springs, over and along the following route:

"...via Valley Boulevard from Los Angeles to Colton and San Bernardino and State Highway via Victorville, Barstow and Yermo to State Line..."(1)

Applicant, Guy S. Alexander, doing business as Beacon Transport Co., now operates as a highway common carrier between Yermo and Stove Pipe Wells, and intermediate points, via U. S. Highway No. 91 to Baker, thence via State Highways Nos. 127 and 190, through Death Valley Junction and Furnace Creek. This certificate was granted by Decision No. 33112 rendered May 21, 1940, in Application No. 23331. He also serves other points, not material here.

(1) This operative right was created by Decision No. 25545, in Application No. 18364, dated January 16, 1933, which granted a certificate of public convenience and necessity to Nevada Consolidated Fast Freight, authorizing operation between the points above described. Pursuant to Decision No. 30096 rendered September 7, 1937, in Application No. 21434, this certificate was transferred to F. M. Hodge, John D. Kwis and Henry Hodge, doing business as Nevada Consolidated Shippers. By Decision No. 30998 rendered June 20, 1938, in Application No. 22023, the operative right was transferred to applicant, Nevada Consolidated Fast Freight.

(2) Decision No. 33112 also authorized Alexander, subject to certain restrictions, to operate a passenger stage service, as defined by Section 27, Public Utilities Act, between Barstow and Stove Pipe Wells and intermediate points, via U. S. Highway 91 to Baker and thence over the route above described to Stove Pipe Wells. In respect to both freight and passengers, points situated within a lateral zone extending 10 miles on side of the highway traversed between Baker and Stove Pipe Wells could be served.

The understanding between the applicants regarding the transfer is embodied in two written agreements, copies of which accompany the application; collectively, they must be deemed a single contract. By the terms of this contract Alexander is obligated to pay to Nevada Consolidated Fast Freight, as the purchase price for this certificate, the sum of \$2500, of which \$250 shall be paid contemporaneously with the execution of the agreement, and the balance, in forty-five monthly installments of \$50 each, commencing on the 30th day following the Commission's approval of the transfer. Interest at 6 per cent per annum upon the unpaid installments shall accrue as they mature, running from the date of the Commission's approval of the transfer. At his option, Alexander, at any time, may pay all or any part of the balance. Should Alexander default in meeting any installment, the seller, may elect to require payment of the entire balance then due. Alexander seeks authority, under Section 52, Public Utilities Act, to execute this agreement as it constitutes an evidence of indebtedness payable in part at more than one year after date.

As we have stated, applicants propose to abandon that part of the line extending from Wheaton Springs to the California-Nevada state line, via U. S. Highway 91, a distance of approximately 12 miles. This territory is an uninhabited desert; between these points no communities exist and there are but two service stations. The owners of these stations, situated, respectively, 10 miles and 4 miles south of the state line, have

(3)
expressed their written consent to the abandonment of the service. The public, it is shown, will not be prejudiced by the proposed abandonment of service north of Wheaton Springs.

In our opinion the transfer of the properties should be authorized. The record does not show any expenditures by the original grantee for the operative right which will be acquired by Guy S. Alexander. We are, therefore, of the opinion that any payments made by him for said operative right should be charged to surplus. No public hearing is necessary.

O R D E R

Application having been made as above entitled, and the Commission being now fully advised:

IT IS ORDERED:

(1) That Nevada Consolidated Fast Freight, a corporation, be and it hereby is authorized to transfer to Guy S. Alexander the certificate of public convenience and necessity authorizing operation as a highway common carrier, as defined by Section 2-3/4 of Public Utilities Act, acquired by said Nevada Consolidated Fast Freight pursuant to Decision No. 30998, rendered June 20, 1938, in Application No. 22023.

(3) Appended to the application are letters from the owners of these service stations expressing their acquiescence in applicants' proposal. The owner of the Lakeview Service Station, situated 10 miles south of the state line, and 1½ miles from Wheaton Springs, advised that he patronized peddlers and agency trucks which delivered directly to his door. The operator of the Border Station, located 4 miles south of the state line, stated that most of his freight was received at Jean Nevada, a railroad station on the Union Pacific located not far from the state line. The rail rates, he said, were lower than those of Nevada Consolidated Fast Freight.

(2) That said Guy S. Alexander, be and he hereby is authorized to acquire from said Nevada Consolidated Fast Freight, and thereafter operate, the operative right described in paragraph (1) hereof, and to consolidate said operative right with the operative right acquired by said Alexander pursuant to Decision No. 33112, rendered May 21, 1940, in Application No. 23331.

(3) That said Nevada Consolidated Fast Freight and said Guy S. Alexander, be and they hereby are severally authorized to discontinue and abandon operation as highway common carriers, respectively, as defined by Section 2-3/4 Public Utilities Act, over that portion of said operative right herein authorized to be transferred, extending between (but not including) Wheaton Springs and the California-Nevada state line, via U. S. Highway 91.

(4) That said Guy S. Alexander, be and he hereby is authorized, within thirty (30) days after the effective date hereof, to execute an agreement substantially in the same form as the agreements dated August 16, 1941, copies of which are attached to the application herein and marked Exhibit A; provided, that the authority herein granted is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said agreement as to such other legal requirements to which said agreement may be subject. The execution of said agreement is authorized subject to the following conditions:

- (a) The authority herein granted will become effective when said Guy S. Alexander has paid the minimum fee prescribed by Section 57, Public Utilities Act amounting to \$25.

- (b) Within thirty (30) days after the execution of said agreement, said Guy S. Alexander shall file with the Railroad Commission a copy of said agreement.

(5) That in connection with the transfer of said operative right pursuant to the authority herein granted, and in the operation by said Guy S. Alexander of a highway common carrier service pursuant to said certificate, the applicants herein shall severally comply with and observe the following service regulations:

- (a) Applicants shall severally comply with General Order No. 80 by filing, in triplicate, within sixty (60) days from the effective date of this order and upon not less than one (1) day's notice to the Commission withdrawal or adoption notice as required by said General Order, or in a form satisfactory to the Commission.
- (b) Applicants shall severally comply with Part IV of General Order No. 93-A within sixty (60) days from the effective date of this order and upon not less than one (1) day's notice to the Commission and the public.
- (c) Applicant, Guy S. Alexander, shall conduct said highway common carrier service over and along the following routes, subject to the authority of the Commission to change or modify them by further order at any time, viz.,
 - (1) From Los Angeles to Colton via U. S. Highway No. 99; from Colton to San Bernardino via U. S. Highway No. 395; from San Bernardino to Barstow via U. S. Highway No. 66; from Barstow to Wheaton Springs via U. S. Highway No. 91; thence returning in the reverse direction over the same route.

- (ii) Diverging from U. S. Highway No. 91 at Baker; thence via State Highway No. 127 to Death Valley Junction; thence over State Highway No. 190, via Furnace Creek Inn, to Stove Pipe Wells; thence returning in the reverse direction over the same route.

Except as herein otherwise expressly provided, the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 18th day of November, 1941.

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 COMMISSIONERS

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 RAILROAD COMMISSION
 STATE OF CALIFORNIA
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 By [Signature]
 SECRETARY