

ORIGINAL

Decision No. 34204

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
LINTON L. LOWRY dba MID-STATE EXPRESS )  
CO. to sell and MELVIN A. PIXLEY dba ) Application No. 25155  
FURNITURE FAST FREIGHT to purchase an )  
automobile freight line, etc. )

BY THE COMMISSION:

O P I N I O N

The application herein considered is a joint amended application in which Linton L. Lowry requests authority to sell and transfer all of his highway common carrier operative rights, truck equipment, office furniture, fixtures, stationery, supplies, tools, hand trucks, dollies, furniture pads, etc. to Melvin A. Pixley. The latter applicant requests authority to purchase and acquire those operative rights, equipment and other personal property described and thereafter to operate thereunder.

The right proposed to be transferred was created by the Commission's Decision No. 34360, rendered July 1, 1941, in Application No. 21863, as amended by Decision No. 34440. The certificate as granted authorizes the transportation of furniture as described under that heading in Western Classification No. 69, C.R.C.--WC 2 of R. C. Fyfe, Agent, excepting the packing requirements thereof. It also authorized the transportation of certain other items as more particularly described in Decision No. 34440. The territory served under the authority of that operative right is generally between San Francisco and Oakland, on the one hand, and Vallejo, Sacramento, Stockton, Manteca, Modesto and intermediate points, on the other hand, as

specifically set forth in the decisions granting the operative right.

Applicant Pixley is engaged in the transportation of new furniture, subject to certain limitations, in general between Los Angeles, San Francisco, North Sacramento and certain intermediate points.

The transfer is to be made pursuant to the provisions of a conditional contract of sale marked Exhibit "A" and attached to the application. The consideration involved is \$13,000 payable as follows:

"One Thousand Dollars (\$1,000.00) in cash upon the signing of this contract, the receipt of which is hereby acknowledged; Four Thousand Dollars (\$4,000.00) in cash upon the Railroad Commission of the State of California authorizing the Seller to sell and transfer the above mentioned and described personal property to the Buyer; One Hundred Fifty Dollars (\$150.00) or more on the 1st day of May, 1943, and a like installment of One Hundred Fifty Dollars (\$150.00) or more, plus interest, on the first day of each and every month thereafter until the whole of said purchase price shall have been paid. The amount remaining from time to time unpaid shall bear interest at the rate of five per cent per annum from May 1, 1943, until May 1, 1944, then at six per cent per annum; said interest shall be payable monthly at the time of the paying of the monthly installments hereinabove provided."

It is stated in the application that no value is assigned to the operative right, the entire purchase price representing the value of truck equipment, office furniture, fixtures, stationery, supplies, tools, hand trucks, dollies, furniture pads and other personal property. The representation of the parties as to the value of the rights and properties to be transferred is not binding upon the Commission, nor shall the authorization here given for their transfer be taken as a finding in respect to their value for any purpose.

O R D E R

The Commission having considered applicants' request and it being of the opinion that this is not a matter on which a hearing is necessary; that the conditional contract of sale is an evidence of indebtedness payable in part at more than one year after date; that the money, property or labor to be procured or paid for by its execution is reasonably required by said Melvin A. Pixley to conduct his transportation service and that the application should be granted subject to the provisions of this order, therefore,

IT IS ORDERED as follows:

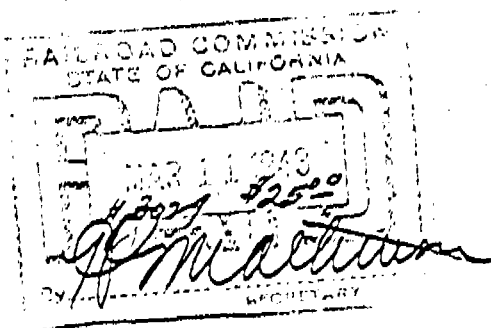
(1) Linton L. Lowry may sell and transfer to Melvin A. Pixley and said Melvin A. Pixley may acquire the highway common carrier operative rights created by Decision No. 34360, rendered July 1, 1941, as amended by Decision No. 34440, rendered July 21, 1941, both in Application No. 21863 and the automotive equipment and other personal property described in the agreement attached to the application and marked Exhibit "A," which agreement said Linton L. Lowry and Melvin A. Pixley may execute.

(2) The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act, and further to the condition that Melvin A. Pixley, his successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operating rights, or claim as the cost thereof an amount in excess of that paid for said rights by those to whom said rights were originally granted.

(3) Applicants shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

(4) The authority herein granted shall become effective when applicants or either of them shall have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five dollars (\$25.00).

Dated at San Francisco, California, this  
9<sup>th</sup> day of March, 1943.



Francis D. Stevenson  
H. T. BARK  
Justus F. Coe  
Richard ...  
Charles ...  
COMMISSIONERS