

ORIGINAL

Decision No. 38950

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WILLIS M. CAPEN to sell and WESTERN)
TRUCK LINES, LTD., to purchase an)
automotive freight line operated be-)
tween Sacramento, California, on the)
one hand, and Pacific House and all)
points easterly therefrom to State)
line, Tallac, and Fallen Leaf Lake,)
on the other hand.)

Application No. 26829

BY THE COMMISSION:

O P I N I O N

Willis M. Capen requests authority to sell to Western Truck Lines, Ltd., a corporation, his highway common carrier operative right created by Decision No. 34429, as amended by Decision No. 34522, in Application No. 24298. Western Truck Lines, Ltd. requests authority to purchase such right for a cash consideration of \$4000. No physical property is involved in the proposal.

The operative right involved, in general, authorizes a highway common carrier service between Pacific House, Fallen Leaf Lodge and State Line and intermediate points, over U. S. Highway 50. It also authorizes a highway common carrier service between the foregoing points, on the one hand, and Sacramento, on the other hand, subject to the provisions as more specifically set forth in Decision No. 34429. This decision also authorized Capen and El Dorado Motor Transportation Co. to publish joint rates. The buyer proposes to continue in effect such joint rates.

The purchaser now and for many years has conducted a highway common carrier service, in general between Los Angeles and nearby points and the California-Arizona State Line east of Blythe, and between Los Angeles and Topaz, near the California-Nevada State Line. This is not a matter requiring a public hearing and the request will be granted.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Western Truck Lines, Ltd., is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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 HEREBY ORDERED:

(1) That Willis M. Capen is hereby authorized to sell and transfer to Western Truck Lines, Ltd., a corporation, on or before September 10, 1945, the operative right created by Decision No. 34429, as amended, and that Western Truck Lines, Ltd., is hereby authorized to purchase and acquire said operative right and thereafter operate thereunder.

(2) That within 30 days after the transfer of the operative right authorized herein the purchaser shall file with this Commission a copy of the bill of sale executed under the authority herein granted.

(3) That if the purchaser acquires the operative right it may charge to Intangible Capital account not more than \$50 of the purchase price, the remainder thereof to be charged to Proprietors' Investment account.

(4) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof, and on not less than 5 days' notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 10th
day of July, 1945.

Harold Anderson

William A. Carr

James Paul
COMMISSIONERS