

ORIGINAL

Decision No. 38162

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
READER TRUCK LINES, a corporation,)
to sell, and J. NELSON KAGARISE,)
doing business as PUBLIC FREIGHT)
SERVICE, to purchase, a highway)
common carrier operating right for)
the transportation of property be-)
tween Los Angeles and the Los)
Angeles Harbor district.)

Application No. 26741

ARLO D. POE, for applicant J. Nelson Kagarise

ARTHUR H. GLANZ, for applicant Reader Truck Lines

HUGH GORDON, for Pacific Freight Lines, Pacific
Freight Lines Express and Valley Express,
interested parties

BY THE COMMISSION:

O P I N I O N

Reader Truck Lines, a corporation, requests authority to sell and transfer to J. Nelson Kagarise a prescriptive right for the transportation of property by truck as a highway common carrier between Los Angeles and Los Angeles Harbor. Said right was acquired by the seller herein under authority of Decision No. 32900. (1)

(1) In decision No. 12823, Case No. 1871, dated November 14, 1923, the Commission found that one of applicant's predecessors in interest, California Truck Company, a corporation, was "engaged in the business of transporting property for compensation between the fixed termini of the City of Los Angeles (original grant) and the steamship wharves and docks located at the Los Angeles Harbor (Wilmington and San Pedro) *** over regular routes *** prior to May 1, 1917, ***." Subsequently, transfers of said prescriptive right were authorized in Decisions Nos. 18866, 30914, and 32900.

This matter and Applications Nos. 26597 and 26727 were heard before Examiner Chiesa in Los Angeles on July 12, 1945. It was stipulated that evidence submitted be considered in support of all three matters but that the applications be disposed of in separate decisions.

J. Nelson Kagarise, who has joined in the request, testified that he is presently engaged in the freight forwarding and express business under the name of Public Freight Service. He is also a permitted carrier operator.

A financial statement (Exhibit No. 5) offered in support of this application shows his assets and liabilities as of June 30, 1945, to be as follows:

ASSETS:

Cash on hand and in banks		\$2,498.31
Accounts receivable		3,636.89
Advances to employees		326.80
Equipment	\$19,481.84	
Less Res. for Deprec.	<u>7,488.74</u>	11,993.10
Prepaid & deferred assets		631.65
Goodwill		100.00
Franchise		<u>3,231.82</u>
Total Assets		<u>\$22,418.57</u>

LIABILITIES:

Net worth	\$10,922.58
Accounts payable	6,482.74
Equipment obligations	3,547.75
Other liabilities	<u>1,465.50</u>
Total Liabilities & Net Worth	<u>\$22,418.57</u>

A profit and loss statement (Exhibit No. 6) for January 1, to June 30, 1945, shows gross income of \$38,853.40, operating expenses of \$35,607.14, and net profit of \$3,246.26.

The equipment includes one International tractor, two International trucks, two Chevrolet tractors, four Chevrolet trucks, and three semi-trailers.

A. R. Reader testified that Reader Truck Lines has

been performing services for the general public continuously since its acquisition of said operative right.

Reader Truck Lines is selling said operative right because it expects to acquire similar but more extensive rights in the same and surrounding territory and, if permitted to do so, a duplication of rights would result. The sale is conditioned upon Reader Truck Lines acquiring certain rights as set forth in Application No. 26727. J. Nelson Kagarise testified that he desires to acquire said highway common carrier rights in order to further enlarge the scope of his trucking operations. (2)

Purchaser has agreed to pay \$3,500 for said operative right as follows: \$500 within ten days after the issuance of an order of the Railroad Commission approving the transfer of said operative right, and \$100 or more on the first day of each month thereafter until the full amount is paid. The deferred payments bear no interest if paid when due. After delinquency the interest rate is seven per cent. A copy of the agreement of sale is on file in this application as Exhibit "A." We have no objection to the transfer of the operative right. There is, however, in the record nothing to warrant a finding that any part of the purchase price should be charged to intangible or tangible property accounts. It should be written off within three years after the date hereof. In issuing this order we are making no finding of the value of the operative right and will not, in the future, if called upon to do so, recognize the purchase price as a capital charge or the charges of amortization as an operating expense for the purpose of fixing rates or for any other purpose.

(2) The evidence discloses no particular relation between this proposed transfer and the proposed sale by Kagarise to Reader Truck Lines of his freight forwarder and express business (Application No. 26597), Kagarise having agreed to sell the latter rights several months before the opportunity to buy from Reader Truck Lines arose.

After full consideration of the record herein and upon facts found as stated in this opinion, we conclude that the proposed sale and transfer are in the public interest and, therefore, the application will be granted.

J. Nelson Kagarise 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

A public hearing having been held in the above-entitled proceedings, the matters having been duly submitted, the Commission being fully informed, and good cause appearing,

IT IS ORDERED as follows:

1. Reader Truck Lines, a corporation, may, on or before October 31, 1945, transfer to J. Nelson Kagarise the operative right referred to in Decision No. 32900, dated March 19, 1940. J. Nelson Kagarise may acquire and operate under said operative right.

2. If J. Nelson Kagarise acquires said operative right, he shall charge the consideration paid therefor to a suspense account and amortize said payment within three years after the date hereof by charges to net income.

3. Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof, and on not less than one (1) day's notice to the Commission and the public.

4. In the event the authority herein granted is exercised, J. Nelson Kagarise shall notify the Commission thereof within thirty (30) days after the actual date of transfer and shall file with the Commission a copy of any bill of sale or any other instrument of transfer executed under the authority herein granted.

5. The authority herein granted will become effective when J. Nelson Kagarise has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25) Dollars.

Dated at San Francisco, California, this 28th day of August, 1945.

Harold O'Brien
Justice F. Craven
Richard H. ...
...
Commissioners

