

Decision No. ~~39258~~

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Elmer L. Webb, an individual,)
and Elmer L. Webb and Roy C. Webb,)
a copartnership doing business as)
Webb Bros., to sell, and Harold B. Boyle,)
an individual doing business as Boyle & Son,) Application
to purchase, a motor freight line operated) No. 26895
between Escondido and San Diego, between)
San Diego and San Pasqual and between)
Escondido and the Palomar Post Office, and)
intermediate points.)
-----:)

BY THE COMMISSION:

O P I N I O N

This is an application for an order of the Railroad Commission authorizing Elmer L. Webb, an individual; and Elmer L. Webb and Roy C. Webb, copartners doing business as Webb Bros., hereinafter sometimes referred to as Sellers, to sell to Harold B. Boyle certain truck operative rights and properties described by applicants in an agreement of sale, dated July 31, 1945, (Exhibit "A") as follows:

- (a) Certificate of public convenience and necessity granted by the California Railroad Commission to Elmer L. Webb by decision No. 5122 on application No. 3386 dated February 7, 1918. Said certificate grants authority to operate a truck line for the transportation of freight between San Diego and Escondido and intermediate points.
- (b) The name Escondido Truck Line together with the good will associated with the business known as Escondido Truck Line.
- (c) Operative right acquired originally by E. Webb by reason of operation on and prior to May 1, 1917 between San Diego and San Pasqual and intermediate points serving Mirimar, Morton and Bernardo among other points and by successive transfers ultimately transferred to Elmer L. Webb and Roy C. Webb doing business as Webb Bros. pursuant to decision No. 15416 on application No. 11507 dated September 19, 1925.

(d) The name San Pasqual Valley Truck Line, and the good will associated with the business conducted under that name.

(e) Certificate of public convenience and necessity originally granted to George E. Waring and A. L. Linthicum by decision No. 10548 on application No. 7824 authorizing the transportation of freight and express between Escondido and Palomar post office, serving Valley Center, Rincon, Amago, Warner Dam Site and Palomar Camp Site as intermediate points during the season from April 1 to October 1 of each year, and transferred to SELLERS by decision No. 12342 on application No. 9182 on July 13, 1923.

(f) The name Palomar Mountain Truck Line and the good will associated with the business conducted by SELLERS under and pursuant to the certificate described in subparagraph (e) immediately above.

(g) Automotive equipment described as follows:

- 1 - 1940 2 ton Dodge truck
- 1 - 1941 1½ ton Ford truck
- 1 - 1942 1½ ton Dodge truck
- 1 - 1925 Pike trailer
- 1 - 1928 Utility trailer

The agreed purchase price for the aforesaid property is the sum of \$14,396 of which \$4,396, said to represent the value of the automotive equipment, is payable upon approval of the agreement of sale by the Railroad Commission, and the balance of \$10,000, said to represent the value of the operative rights, certificates, names and good will of the Sellers, is payable in monthly installments of \$100 or multiples thereof, commencing on the first day of the month following the month in which the Commission approves the transfer of the properties. Interest will accrue on the deferred balance at the rate of five per cent per annum. It appears to us the agreement of sale, in providing for payment of the purchase price in part over a period of more than twelve months after its date, is an evidence of indebtedness as defined in Section 52-b of the Public Utilities Act and, as such, requires the approval of the Commission which is subject to the payment of the fee prescribed by Section 57 of the Act. In our opinion the money, property or labor to be procured or paid

for through the execution of the agreement is reasonably required by Harold B. Boyle for the purpose specified herein.

Harold B. Boyle, the purchaser, is an individual doing business under the firm name and style of Boyle & Son and is engaged in the business of operating motor vehicles from Rancho Santa Marguerita to Los Angeles and Los Angeles Harbor in the transportation of farm products, and in the reverse direction in the transportation of farm supplies and necessities. He reports he holds a certificate of public convenience and necessity acquired pursuant to Decision No. 36441, dated June 22, 1943, and permits as a radial highway common carrier and contract carrier between Escondido and other points in southern California. For 1944 he reports his gross revenues at \$181,355.93 and his net income at \$21,522.07.

It is reported that the Sellers desire to dispose of their business and properties because they are engaged extensively in the business of selling and dealing in farm implements and machinery and have been unable to devote the required amount of time to the transportation operations with the result that they have been unable to keep operating expenses at a reasonable level⁽¹⁾. The purchaser, it is reported, is experienced in the

(1) The Sellers report the following revenues and expenses:

	<u>Freight Revenue</u>	<u>Operating Expense</u>	<u>Net</u>
1940	\$21,505	\$19,512	\$1,993
1941	21,939	18,842	3,097
1942	28,652	21,069	7,583
1943	30,380	26,519	3,861
1944	34,862	35,841	(979)
1945 (to 6/30)	18,848	18,000	848

business of transporting property as a motor carrier, is familiar with the territory within which the Sellers operate, and is in a position to devote his full time to the conduct of the transportation business.

The order herein will authorize the transfer. In making this order we are making no finding of value of the operative rights and wish to place applicants upon notice that operative rights 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 in the number of rights which may be given.

In our opinion the purchaser, in recording the purchase of said properties on his books of account should charge \$10,000 of said purchase price to account 1550--Other Intangible Property--as provided in the uniform system of accounts prescribed for Class I common and contract motor carriers of property, and thereafter amortize the same over a period of not more than three years by charges to income account 7500--Other Deductions.

O R D E R

The Commission having considered this matter and being of the opinion that a public hearing is not necessary and that the requests of applicants should be granted, as herein provided,

IT IS HEREBY ORDERED as follows:

1. Elmer L. Webb, an individual, and Elmer L. Webb and Roy C. Webb, copartners doing business as Webb Bros., may, after the effective date hereof and on or before December 31, 1945, transfer to Harold B. Boyle the operative rights and properties referred to in the foregoing opinion, such transfer to be made in accordance with the terms and conditions of the agreement dated July 31, 1945, filed in this proceeding as Exhibit "A", which agreement said Elmer L. Webb and said Elmer L. Webb and said Roy C. Webb, copartners doing business as Webb Bros., and said Harold B. Boyle may execute.

2. The authority herein granted will become effective when Harold B. Boyle has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

3. 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 sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

4. If said Harold B. Boyle acquires said properties, he shall charge to account 1550--Other Intangible Property--any part of the purchase price in excess of \$4,396 and thereafter amortize said charge to account 1550--Other Intangible Property--over a period of not more than three years after acquiring said

properties by charges to income account 7500--Other Deductions.

5. Elmer L. Webb and Roy C. Webb shall file with the Commission, within thirty (30) days after the transfer of the operative rights and properties under the authority herein granted, a report of their operations during 1945, from January 1 down to the date of transfer.

Dated at San Francisco, California, this 20th day of September, 1945.

A. Harold Anderson
Justice J. Coaguen
Richard K. ...
Francis W. ...
David L. ...
 Commissioners

