

ORIGINAL

Decision No. 38306

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WELLS TRUCKWAYS, LTD., to sell, and)
PAUL MARLOWE ALLEY and PAUL ALLEY,)
as co-partners, to purchase an auto-) Application No. 26927
mobile freight line operated for the)
transportation of livestock in Calif-)
ornia.)

BY THE COMMISSION:

O R D E R

In this proceeding WELLS TRUCKWAYS, LTD., seeks authority to transfer to PAUL MARLOWE ALLEY and PAUL ALLEY, co-partners, and the latter proposes to acquire from the former an operative right as a highway common carrier, together with certain equipment used in conducting the service. Under this operative right, Wells Truckways, Ltd., is authorized to engage in the transportation of livestock between certain points more specifically described in the margin. (1)

By the terms of the agreement between the parties, dated July 6, 1945, a copy of which accompanies the application, the

(1) By Decision No. 32673, rendered December 19, 1939, in Applications Nos. 22243 and 22467, Wells Transportation, Inc., was authorized to engage in the transportation of livestock over certain routes, including intermediate points, with the right to make lateral departures from such routes within a radius of 50 miles.

"These routes are described as follows:

1. U. S. Highway No. 101 between Los Angeles and Santa Maria
2. U. S. Highway No. 99 between the Mexican border south of Calexico and Modesto
3. U. S. Highway No. 6 between Los Angeles and Bishop
4. U. S. Highway No. 395 between Bishop and the Nevada state line north of Coleville
5. U. S. Highway No. 60 between Los Angeles and the Arizona state line east of Blythe
6. U. S. Highway No. 80 between the Arizona state line east of Winterhaven and El Centro."

This operative right was acquired by Wells Truckways, Ltd., pursuant to Decision No. 36860, rendered February 8, 1944, in Application No. 25979.

price is fixed at \$2,000; \$500 of which has been paid, and the remainder is payable following this Commission's approval of the transfer. Of the agreed purchase price \$500 represents the value of the operative rights and \$1,500 represents the value of the equipment, comprising three units. The operation would be conducted by the purchasers independently of the livestock transportation business in which Paul Alley, one of the partners, is engaged.⁽²⁾

Our records show that two fifty (\$50) dollar filing fees were paid in connection with the operative rights which Wells Truckways, Ltd., has agreed to transfer to Paul Marlowe Alley and Paul Alley, co-partners. In recording the purchase of the properties they should charge tangible property accounts with \$1,500 and intangible property account with \$500, and credit proprietors account with \$2,000. Immediately thereafter, they should credit intangible property with \$400 and charge proprietors account with \$400.

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

Paul Marlowe Alley and Paul Alley, co-partners, are 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.

(2) See Decision No. 32673, rendered December 19, 1939, in Application No. 22347 and Decision No. 35465, rendered June 9, 1942, in Application No. 24988.

O R D E R

Application having been made as above entitled, and the Commission having considered the matter and it being of the opinion that this is not a matter requiring a public hearing, and that this application should be granted as herein provided,

IT IS ORDERED as follows:

(1) That Wells Truckways, Ltd., a corporation, be and it is hereby authorized, on or before January 31, 1946, to transfer to Paul Marlowe Alley and Paul Alley, co-partners, in accordance with the terms of the agreement between said parties, dated July 6, 1945, a copy of which accompanies the application, the operative right as a highway common carrier (as defined by Section 2-3/4, Public Utilities Act) acquired by Wells Truckways, Ltd., pursuant to Decision No. 36860, and the property described in the foregoing opinion; and Paul Marlowe Alley and Paul Alley, partners, are hereby authorized to acquire from Wells Truckways, Ltd., said operative right and property, and thereafter to operate under said operative right.

(2) That applicant shall comply with the provisions of General Order No. 79 and General Order No. 93-A, by filing in triplicate and concurrently making effective appropriate tariffs and time schedules within 60 days from the effective date hereof, and on not less than one day's notice to the Commission and the public.

(3) That if Paul Marlowe Alley and Paul Alley, co-partners, acquire said properties, they shall record the amount paid therefor in the manner indicated in the foregoing opinion.

(4) That in the event such authority to transfer is exercised, Paul Marlowe Alley and Paul Alley, co-partners, shall notify the Commission thereof within 10 days after the actual date of such transfer.

(5) That within 30 days after the transfer of said operative rights and properties, Paul Marlowe Alley and Paul Alley, co-partners, shall file with the Commission a copy of any bill of sale or other instrument of transfer, executed under the authority herein granted.

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

Dated at San Francisco, California, this 16th day of October, 1945.

David Anderson
Justin F. Cooney
Franklyn Dyer
David Powell
COMMISSIONERS