

Decision No. 39727

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of PAUL ALLEY, an individual; and	:	
J.B.BOWERS, ALFRED KNUITSEN, GEORGE E.)	
JACOBSON, and RAY E. FOX, copartners, to	:	Application
purchase the transportation business,)	No. 27629.
equipment and operating authority here-	:	
in described.)	
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O P I N I O N

This is an application for an order authorizing Paul Alley, hereinafter referred to as Seller, to sell and transfer highway common carrier operative rights and properties to J. B. Bowers, Alfred Knutsen, George E. Jacobson and Ray E. Fox, hereinafter referred to as Buyers, and authorizing said Buyers to execute a chattel mortgage and to issue a note in the principal amount of \$39,500.

The application shows that Paul Alley is engaged in the business of operating motor vehicles for the transportation of livestock under a certificate of public convenience and necessity issued by the Commission by Decision No. 32673, dated December 19, 1939. He reports his revenues from the operation of the business at \$233,966 for the year 1944, at \$247,251 for the year 1945 and at \$140,104 for the first five months of 1946, and his net profit at \$31,278 for 1944, at \$13,826 for 1945 and at \$13,034 for the first five months of 1946.

It appears that Seller desires to withdraw from his operations and accordingly has made arrangements to transfer to

four of his employees, Buyers herein, for the sum of \$43,500, his certificate of public convenience and necessity, five trucks and five trailers. The original cost of the trucks and trailers is reported at \$48,031 and the present market value at \$40,000. The sum of \$3,500 is assigned by applicants as the value of the operative rights.

Of the proposed purchase price, \$4,000 will be payable in cash upon the approval of the transfer by the Railroad Commission, and \$39,500 will be represented by a note payable in forty-eight equal monthly installments, commencing on the first day of the month following the approval of the Commission, with interest on the unpaid balance at the rate of five percent per annum. The payment of the note will be secured by a chattel mortgage covering the ten units of equipment.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the requests of applicants should be granted as provided in the order herein. Said Buyers 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 in the number of rights which may be given.

In entering this order the Commission is not making a finding of the value of the rights and properties herein.

authorized to be transferred. However, it appears to be desirable at this time to indicate the accounting procedure to be followed by Buyers in recording the purchase on their books of account. On the basis of the information furnished the Commission, it appears that of the total purchase price Buyers should charge not more than \$40,000 to account 1200, Carrier Operating Property, and \$50, representing the filing fee paid to the Commission, to account 1511, Franchises. The balance of the purchase price should be charged to account 1550, Other Intangible Property, and thereafter written off over a period of not more than three years from the date of this order, by charges to account 7500, Other Deductions.

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Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and properties and the execution of a chattel mortgage and a note for \$39,500, and the Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of said note is reasonably required for the purpose specified herein,

IT IS HEREBY ORDERED as follows:

1. Paul Alley, after the effective date hereof and on or before October 31, 1946, may transfer to J. B. Bowers, Alfred Knutsen, George E. Jacobson and Ray E. Fox the operative rights and properties referred to in the foregoing opinion and in this application, and said J. B. Bowers, Alfred Knutsen, George E.

Jacobson and Ray H. Fox may acquire said rights and properties, such transfer to be in accordance with the terms of the agreement filed in this proceeding as Exhibit "A", as modified by a supplemental agreement filed with the Commission on July 22, 1946.

2. J. B. Bowers, Alfred Knutsen, George E. Jacobson and Ray H. Fox, after the effective date hereof and on or before October 31, 1946, may execute a chattel mortgage in, or substantially in, the same form as the chattel mortgage filed in this proceeding on July 22, 1946, and may issue a note in the principal amount of \$39,500, payable in forty-eight monthly installments with interest at the rate of five percent per annum on unpaid balances, for the purpose of financing in part the purchase price of the properties herein authorized to be transferred.

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 of this order and on not less than one (1) day's notice to the Commission and to the public.

4. The authority herein granted will become effective when J. B. Bowers, Alfred Knutsen, George E. Jacobson and Ray H. Fox have paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Forty (\$40.00) Dollars.

5. Within thirty (30) days after the issue of the note herein authorized, J. B. Bowers, Alfred Knutsen, George E. Jacobson and Ray H. Fox shall file a report thereof as required by the Commission's General Order No. 24-A which order, insofar as applicable, is made a part of this order.

Dated at San Francisco, California, this 20 day
of July, 1946.

David Rudman
Justin F. Cooney
Francis Coon
Scott Sawyer
Harold Huls
 Commissioners

