

ORIGINAL

Decision No. 42402

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| | | |
|---------------------------------------|---|-------------|
| In the Matter of the Application of |) | |
| LUPE C. ALEMAN and K. K. ATKINSON, | : | |
| a Limited Partnership, doing business |) | |
| as ARROW TRANSPORTATION SERVICE, to | : | |
| transfer, and MILTON D. WOLGAMOTT to |) | Application |
| acquire, an automotive freight line, | : | No. 29927 |
| and for the latter to execute a Prom- |) | |
| issory Note and Chattel Mortgage. | : | |
| ----- |) | |

O P I N I O N

This application shows that Lupe C. Aleman and K. K. Atkinson, partners doing business as Arrow Transportation Service, are engaged in the business of a highway common carrier as hereafter set forth; that they desire to withdraw from such operations to devote their time to other business activities; and that they have made arrangements, and now ask for authority, to transfer their operative rights and properties to Milton D. Wolgamott for the sum of \$2,800.(1)

The operative rights to be transferred consist of a certificate of public convenience and necessity acquired by the present partnership pursuant to authority granted by Decision No. 40560, dated July 29, 1947, which authorizes the establishment and operation of service as a highway common carrier between Martinez, Crockett and Vallejo, on the one hand, and Benicia and Benicia Arsenal, on the other hand, limited as follows:

(1) The partners report revenues of \$2,494.87 during 1947 and of \$3,466.05 during the first eleven months of 1948, with net profits for the two periods of \$238.75 and \$1,600.00, respectively.

- (a) To the transportation of shipments moving under the billing of Railway Express Agency, Inc., an express corporation, as an underlying carrier for the latter; and
- (b) To the transportation of baggage, and shipments of milk and cream or empty containers therefor, which have had or will have, in addition to the movement by applicant, a prior or a subsequent movement by rail.

The other properties to be transferred include a 1943 Ford 1½-ton truck and an agreement dated December 7, 1947, between Railway Express Agency, Inc., and Arrow Transportation Service dealing with the transportation by Arrow Transportation Service of property of Railway Express Agency, Inc., together with certain supplemental agreements.

A copy of the agreement for the transfer of the properties is attached to the application herein and marked Exhibit "X". It provides, among other things, for the payment by applicant Wolgamott of \$950 of the purchase price in cash at the time of the transfers of the properties and of the balance of \$1,850 at the rate of \$50 a month, on or before the first day of each month commencing on the first day of the next succeeding month following such transfers and continuing for a period of eighteen months, at or before which time the entire unpaid balance shall be paid, together with interest at the rate of 6% per annum on unpaid balances. Said sum of \$1,850 will be represented by a note, the payment of which will be secured by a chattel mortgage on the certificate of public convenience and necessity and on the Ford truck. A copy of the proposed note is on file in this proceeding as Exhibit "A" attached to Exhibit "X", and a copy of the proposed chattel mortgage as Exhibit "B" attached to Exhibit "X".

Applicants 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.

O R D E R

The Public Utilities Commission having considered the above entitled application, and being of the opinion that a public hearing thereon is not necessary, that the requests of applicants should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of a note for \$1,850 is reasonably required by Milton D. Wolgamott for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Lupe C. Aleman and K. K. Atkinson, after the effective date hereof and on or before February 28, 1949, may sell and transfer to Milton D. Wolgamott the operative rights and properties referred to in the foregoing opinion.

2. Milton D. Wolgamott, after the effective date hereof and on or before February 28, 1949, may issue a promissory note in the principal amount of \$1,850, under the terms and conditions set forth in this application, for the purpose of paying in part the purchase price of said operative rights and properties, and may execute a chattel mortgage to secure the payment of said note. The note and chattel mortgage shall be in, or substantially in, the same form as those filed in this proceeding.

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 thirty (30) 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 action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

5. Milton D. Wolgamott shall file with the Commission a copy of the note and a copy of the chattel mortgage as actually executed under the authority herein granted, said filing to be made within thirty (30) days after the issue of said note and execution of said chattel mortgage.

6. The authority herein granted will become effective when Milton D. Wolgamott has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five (\$25.00) dollars.

Dated at San Francisco, California, this 4th day
of January 1949.

R. F. Dickinson
Justice J. Cannon
Leah J. Powell
Harold P. Kille
Samuel H. Potter
Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
R 106 XV
JAN 10 1949
825 23349
By W. G. Klippel