

ORIGINAL

Decision No. 42827

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 NORMAN WEISSER and VICTOR WEISSER,)
 copartners, to sell, and SOUTHERN)
 CALIFORNIA FREIGHT LINES, a corpora-)
 tion, to purchase, an automobile) Application No. 29845
 freight line operated between points)
 and places in San Diego County, on)
 the one hand, and points and places)
 in the City of Los Angeles, on the)
 other hand.)

Victor Weisser and Norman Weisser, by Victor Weisser;
 Southern California Freight Lines by W. A. Steiger.

O P I N I O N

Applicants, Norman Weisser and Victor Weisser, copartners, presently conduct a highway common carrier operation transporting "fresh fruits, vegetables and produce from points in San Diego County south of California State Highway No. 94 and within ten (10) miles of the post office in National City, on the one hand, to points and places within three (3) miles of First and Spring Streets, in the City of Los Angeles, on the other, and empty containers in the reverse direction"⁽¹⁾.

Applicant, Southern California Freight Lines, a corporation, has highway common carrier authority throughout Southern California, including operations between the San Diego and Los Angeles areas.

(1) Decision No. 41559, dated May 4, 1948, on Application No. 28636.

It is herein proposed that Norman and Victor Weisser sell, and that Southern California Freight Lines purchase, the operative rights now held by the Weissers under authority of Decision No. 41549.

A public hearing was held before Examiner Syphers in Los Angeles on February 28, 1949, at which time evidence was adduced and the matter submitted.

Attached to the application and made a part of the record in this matter is an agreement of sale between Norman Weisser and Victor Weisser, as sellers, and the Southern California Freight Lines, as a buyer. This agreement is dated November 20, 1948, and proposes to transfer the entire operative rights of the sellers under Decision No. 41549. The purchase price proposed is \$1,000.

The testimony indicates that Southern California Freight Lines has sufficient equipment to conduct the proposed operations. Also, it maintains terminals at Los Angeles and San Diego and has a dock at Chula Vista. Normally, this company has approximately 30 pickup trucks in the San Diego area at all times. Southern California Freight Lines has been extensively engaged in the handling of produce and, according to the record, makes special deliveries of produce in the Los Angeles market between midnight and the early morning hours. It also maintains a crew in Los Angeles 24 hours a day which crew may be used in the handling of produce.

The testimony further showed that the preponderance of traffic, as hauled by Southern California Freight Lines, is southbound from Los Angeles to San Diego. There is a relatively small amount of traffic in the reverse direction and, as a result, there is considerable empty space on the northbound trucks which could be utilized in the hauling of produce.

The proposed purchaser operates between 14 and 20 units per day between Los Angeles and San Diego, these units each consisting of two semi-trailers and a tractor.

The Weisser brothers propose to sell their operative authority but not the trucking equipment. It is their plan to keep their pickup equipment for farm use and to sell the heavier equipment. The reasons advanced for wanting to sell the operative rights center principally around the fact that the father of the two Weisser brothers has died since the granting of the authority in Decision No. 41559, dated April 4, 1948, and the brothers now desire to engage in farming activities upon some land they now have.

After full consideration of this matter we hereby find that the proposed transfer is not adverse to the public interest and, accordingly, it will be granted.

The action taken herein shall not be construed to be a finding of value of the property or properties herein authorized to be transferred.

Southern California Freight Lines 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

Application having been made in the above-entitled matter, the Commission being fully advised in the premises and finding that the application should be granted,

IT IS ORDERED:

(1) That on or after the effective date of this order and on or before August 1, 1949, Norman Weisser and Victor Weisser, copartners, may transfer to Southern California Freight Lines and the latter may acquire from the former, the operative right granted by Decision No. 41549, dated May 4, 1948, in Application No. 28636, and thereafter operate thereunder.

(2) That the operative right herein authorized to be transferred shall upon the consummation of the transfer, become a part of and consolidated with the existing rights of Southern California Freight Lines, so as to create but one operative right in the territory concerned.

(3) That appropriate tariffs and time tables as required by General Orders Nos. 80 and 93-A shall be filed in triplicate on or after the effective date of this order, to be effective on not less than 5 days' notice to the Commission and the public.

(4) That within 30 days after the consummation of the transfer herein authorized, Southern California Freight Lines shall notify the Commission, in writing, of that fact, and shall within said period file with the Commission a true copy of any bill of sale or other instrument which may have been executed to effect the transfer authorized.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 3rd day of May, 1949.

R. B. Johnson

Justin J. Calver

Howard K. Kila

Samuel Lott

COMMISSIONERS