

ORIGINAL

Decision No. 45581

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
LEON R. MEEKS, an individual, as	)	
Lessor, and CALIFORNIA MILK TRANSPORT,	)	
INC., a corporation, as Lessee, to	)	
lease certain operative rights per-	)	Application No. 32032
taining to the transportation of	)	
milk and dairy products over certain	)	
highways in Los Angeles and Riverside	)	
Counties.	)	

O P I N I O N

Applicant Leon R. Meeks is an individual presently engaged in the transportation of milk and dairy products under authority of certificates of public convenience and necessity issued by this Commission as a result of Decision No. 36704, dated November 9, 1943, on Application No. 25853, and Decision No. 37164, dated June 27, 1944, on Application No. 26089.

Applicant California Milk Transport, Inc. is a corporation now engaged in the business of transporting property for hire, particularly milk and dairy products, under certificates of public convenience and necessity issued by various decisions of this Commission.

In the instant application Leon R. Meeks requests authority to sell and to lease to California Milk Transport, Inc. such operative rights as a highway common carrier as he now possesses under Decision No. 36704 and Decision No. 37164, supra, together with certain physical properties consisting of

trucking equipment and other personal properties used in the conduct of his business. The proposed purchase price is \$80,000, \$1,000 of which is declared to be the value of the operative rights, and \$79,000 the value of the physical properties.

Under the agreement, the purchaser (or lessee) California Milk Transport, Inc. agrees to pay \$20,000 upon execution and delivery of the agreement, and to pay the balance in installments of \$1,000 per month, the first installment payable on the 16th of February, 1951, and on the 16th of each succeeding month until the balance of \$60,000 is paid. These payments are subject to monthly interest payments based on a rate of four percent per annum. It is alleged that the prices agreed upon represent the fair value of the equipment.

Two exhibits are attached to the application, one is an agreement of sale between the parties hereto, dated January 1, 1951, and the second is a lease between the same parties, and likewise dated January 1, 1951.

Under the agreement of sale, the automotive equipment and other physical properties listed therein, and the operative rights, are to be sold to the California Milk Transport, Inc., under the terms hereinabove set out. There is a provision in this agreement that the title shall remain in the seller until the entire purchase price is paid, and that, in the meantime, the buyer shall be considered as a lessee. The lease agreement adopts the terms of the agreement to sell, and provides for a lease for a period of five years, which period is the amount of

time which will be required for the buyer to complete the payment of \$60,000 in monthly installements of \$1,000 per month.

After full consideration of this matter, we are of the opinion that the proposed transactions will not be adverse to the public interest and that the requests of applicants should be granted. In making the order herein we are making no finding of the value of the operative rights or properties herein authorized to be transferred, and we hereby place applicants 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.

It appears to us that the agreement of sale providing for payments over a period of more than twelve months is an evidence of indebtedness as defined in Section 52 (b) of the Public Utilities Act. In our opinion, the money, property or labor to be procured or paid for through the execution of said agreement is reasonably required by California Milk Transport, Inc. for the purpose specified herein and the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income. The order herein, accordingly, will authorize the execution of the agreement.

O R D E R

Application as above entitled having been made, the

Commission being fully advised in the premises and it appearing that a public hearing is unnecessary,

IT IS ORDERED:

(1) That Leon R. Meeks, an individual, do, and he hereby is, authorized to sell and to lease to California Milk Transport, Inc. the trucking equipment and other physical properties listed in the lease agreement, and the certificates of public convenience and necessity to operate as a highway common carrier granted by Decision No. 36704, dated November 9, 1943, on Application No. 25853, and Decision No. 37164, dated June 27, 1944, on Application No. 26089, under and pursuant to the terms of the agreement of sale and of the lease filed in this proceeding, which instruments applicants are authorized to execute.

(2) That California Milk Transport, Inc., is hereby authorized to pay Leon R. Meeks the sum of \$80,000 as follows: the sum of \$20,000 as down payment, and the additional sum of \$60,000 in monthly installments of \$1,000 per month on the 16th of each month, commencing with February, 1951, and continuing until the entire amount is paid, said deferred payments being subject to four per cent interest per annum, payable monthly.

(3) That 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 schedules, within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public.

(4) That the authority herein granted will become effective when California Milk Transport, Inc. has paid the fee

prescribed by Section 57 of the Public Utilities Act, which fee is sixty (\$60.00) dollars.

Dated at San Francisco, California, this 17<sup>th</sup> day of April, 1951.

R. F. [Signature]  
Justice J. Coe  
Harold P. [Signature]  
[Signature]  
John E. [Signature]  
COMMISSIONERS

