

Decision No. 46053**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 FLOYD E. DAVIS ( an individual ) to )  
 sell, and Donald T. Miller and )  
 Stanley G. Worsham, doing business )  
 as M & W TRUCKING SERVICE (a )  
 partnership), to purchase irregular )  
 route common carrier rights between )  
 all points in California. )

Application No. 32525

O P I N I O N

Floyd E. Davis, an individual, seeks authority to transfer to Donald T. Miller and Stanley G. Worsham, doing business as M & W Trucking Service, a partnership, a certificate of public convenience and necessity authorizing operations as a petroleum irregular route common carrier, granted by this Commission in Decision No. 44348, dated June 20, 1950, on Application No. 31194. It is also proposed to transfer one 1941 Autocar truck with a tank capacity of 2,100 gallons, and one Fruehauf full trailer equipped with a 3,100-gallon tank. The purchase price proposed to be paid for the operative rights is \$750, and \$7,250 for the truck and trailer. It is alleged that the sum of \$7,250 has been paid to the seller and that the sum of \$750 is now being held in escrow, to be paid to the seller on or before the effective date of the transfer of the operative rights, if and when such transfer is approved by the Commission.

Attached to the application is a balance sheet and a profit and loss statement of the proposed purchaser, as well as

a list of the equipment which it now operates.

It is alleged that the purchaser now conducts operations as a radial highway common carrier and a highway contract carrier of commodities requiring the use of dump trucks, and has been engaged in this business since November 7, 1950. The seller desires to discontinue his operations as a petroleum irregular route common carrier, due to other interests. Attached to the application is a copy of the income statement of the seller for the year 1950.

After full consideration of this matter we are of the opinion that Floyd E. Davis, an individual, should be permitted to transfer the operative rights and trucking equipment herein described to Donald T. Miller and Stanley G. Worsham, a partnership, doing business as M & W Trucking Service.

In authorizing this transfer we are making no finding of value of the operative rights, and hereby place the transferee upon notice that operative rights as such do not constitute a class of property which may be 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 as above entitled having been made, the Commission being fully advised in the premises and hereby finding it not to be adverse to the public interest,

IT IS ORDERED:

(1) That Floyd E. Davis, an individual, may transfer to Donald T. Miller and Stanley G. Worsham, a partnership, doing business as M & W Trucking Service, the trucking equipment above described and the certificate of public convenience and necessity authorizing operations as a petroleum irregular route common carrier granted by Decision No. 44348, dated June 20, 1950, on Application No. 31194. Donald T. Miller and Stanley G. Worsham, a partnership, doing business as M & W Trucking Service, are hereby authorized to purchase said operative rights and trucking equipment, and thereafter to operate thereunder, subject to the conditions hereinafter set out.

(2) That Floyd E. Davis be, and he hereby is, authorized to sell for \$750 the operating rights referred to above, and for \$7,250 the trucking equipment hereinabove mentioned.

(3) That M & W Trucking Service, should this transfer be effected, 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 M & W Trucking Service, within thirty (30) days

after making the transfer hereinabove authorized, shall file with the Commission a statement showing the journal entries used to record on its books the purchase of the operating authorities and the property herein authorized to be transferred.

(5) That the action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

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

Dated at San Francisco, California, this 7<sup>th</sup> day of August, 1951.

Justus F. Cruesen  
Harold F. Hulse  
Kenneth Potter  
John E. Mitchell

COMMISSIONERS.